

A BILL

ENTITLED

AN ACT to Validate and confirm as lawful the payment of fees in variance, as to amount, of fees prescribed under section 24 of the Legal Aid Act and to provide for indemnification in respect of such payment.

WHEREAS section 24 of the Legal Aid Act provides that there shall be paid to an attorney-at-law to whom a matter has been assigned pursuant to a legal aid certificate, the prescribed fees and such travelling allowances and other out-of-pocket expenses as may be prescribed:

AND WHEREAS the fees, allowances and other out-of-pocket expenses, more particularly described in the Schedule hereto, which vary from the amounts prescribed under section 24 of the Legal Aid Act, have been paid to attorneys-at-law assigned pursuant to legal aid certificates in respect of matters concerning the cases of *R v Uchence Wilson and Others*, and *R v Carlington Godfrey and Others*:

AND WHEREAS such payments were made in the interest of justice having regard to the urgent need to ensure access to justice for the defendants, and due to the unprecedented nature of the trials:

AND WHEREAS it is desirable to validate and confirm as lawful the payment of those fees and to indemnify persons in respect of such payment:

[]

NOW, THEREFORE, BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same as follows:—

- Short title. 1. This Act may be cited as the Legal Aid (Fees) (Validation and Indemnification) Act, 2021.
- Validation. 2. Notwithstanding the provisions of the Legal Aid Regulations, 2000, the payment in good faith, by the Legal Aid Council and all persons acting on behalf or in support of the Council, of the appropriate fee specified in the Schedule hereto to an attorney-at-law assigned to the matter of *R v Uchence Wilson and Others*, or to the matter of *R v Carlington Godfrey and Others*, is hereby declared to have been validly, properly and lawfully done to all intents and purposes and with effect as if done in accordance with the Legal Aid Act.
- Indemnification. 3. Every person liable to be legally proceeded against on the ground that any payment made in good faith, referred to in section 2, was not prescribed under section 24 of the Legal Aid Act is freed, acquitted, discharged and indemnified as well as against the Queen's Most Excellent Majesty, Her Heirs and Successors, and as well against all persons whatsoever from liability.

SCHEDULE

Tariff of Fees and Travelling and Subsistence Allowances

	Independent Counsel \$ —	Senior Counsel \$ —	Junior Counsel \$ —
For the first 30 days of trial	400,000.00	600,000.00	450,000.00
For each sub- sequent period of 30 days of trial	400,000.00	500,000.00	400,000.00

MEMORANDUM OF OBJECTS AND REASONS

Over twenty-five persons, allegedly part of a major organized criminal network dubbed the “Uchence Wilson Gang”, were arrested and charged with offences under the Criminal Justice (Suppression of Criminal Organizations) Act. When those accused persons appeared before the court, they sought assistance under the Legal Aid Act for their defence. Attorneys-at-law expressed that a case of that magnitude would require considerably more resources than the tariff of fees prescribed under the Legal Aid Act afforded. In the interest of justice, having regard to the urgent need to ensure access to justice for the accused persons, and due to the unprecedented nature of the trials, the Minister of Justice, after consultation with the Legal Aid Council and attorneys-at-law, varied the tariff of fees prescribed by the Legal Aid Regulations, 2000.

Payments pursuant to the variation were made to attorneys-at-law in respect of work in the matter of *R v Uchence Wilson and Others*, as well as in the matter of *R v Carlington Godfrey and Others* — a case to which similar considerations attached. However, no regulations were prescribed under the Legal Aid Act to provide for the varied tariff of fees.

Consequently, a decision has been taken to enact legislation to validate the payment of the fees in good faith under the varied tariff and to indemnify persons liable to be proceeded against in respect of those payments. This Bill seeks to give effect to that decision.

DELROY CHUCK
Minister of Justice.



ABILL

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As introduced by the Honourable Minister of Justice.

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