

CAYMAN ISLANDS



SUMMARY JURISDICTION (AMENDMENT) BILL, 2024

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A BILL FOR AN ACT TO AMEND THE SUMMARY JURISDICTION ACT (2024 REVISION) TO PROVIDE FOR THE APPOINTMENT OF MEMBERS OF PARLIAMENT AS JUSTICES OF THE PEACE *VIRTUTE OFFICII*; TO RESTRICT MEMBERS OF PARLIAMENT FROM EXERCISING CERTAIN POWERS, FUNCTIONS OR DUTIES OF JUSTICES OF THE PEACE TO AVOID CONFLICT WITH THEIR ROLE AS MEMBERS OF PARLIAMENT; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Office of the Deputy Governor



Memorandum of OBJECTS AND REASONS

This Bill seeks to amend the Summary Jurisdiction Act (2024 Revision) (“the principal Act”) to provide for the appointment of Members of Parliament as Justices of the Peace *virtute officii*.

The Bill also seeks to provide the parameters for the exercise of certain powers and the carrying out of certain functions by Members of Parliament who are appointed as Justices of the Peace *virtute officii* thereby avoiding any conflict with their role as Members of Parliament and protecting the principle of separation of powers. The Bill seeks to provide for the retention of the appointment as a Justice of the Peace where the appointee ceases to be a Member of Parliament.

Further, the Bill clarifies that the validity of the exercise of certain powers, functions or duties of Justices of the Peace prior to the commencement of this legislation is not affected by this legislation. Finally, the Bill provides for transitional matters with respect to the continuity of ongoing proceedings before a court or tribunal.

Clause 1 provides the short title of the legislation.

Clause 2 amends section 7 of the principal Act to provide for Members of Parliament to be appointed Justices of the Peace *virtute officii*. The clause limits the scope of duties that Members of Parliament are permitted to carry out as Justices of the Peace while they are still Members of Parliament in order to protect the principle of the separation of powers.

Members of Parliament who are appointed Justices of the Peace *virtute officii* are not permitted to engage in any acts or to carry out any duties as a Justice of the Peace under the Elections Act (2022 Revision), the Parliamentary Pensions Act (2016 Revision) or the Police Act (2021 Revision). They are also prohibited from having or exercising any form of jurisdiction in relation to criminal or civil investigations or proceedings. Further, they are not permitted to perform or engage in any act or duty as a Justice of the Peace which pertains to any judicial or quasi-judicial functions.

Clause 3 amends the principal Act by repealing and substituting section 8 of the principal Act as a consequence of the amendment of the principal Act to provide for the appointment of Members of Parliament as Justices of the Peace. The consequential amendment clarifies that, like other Justices of the Peace who are appointed *virtute officii*, the Governor may direct that the entry in relation to a Member of Parliament who is appointed as a Justice of the Peace *virtute officii* pursuant to proposed section 7(3A) may be removed from the Roll of Justices of the Peace.

Clause 4 amends the principal Act by repealing and substituting section 43D of the principal Act to provide for the retention of the appointment as a Justice of the Peace by a person who ceases to be a Member of Parliament and who was appointed as a Justice of the Peace pursuant to section 7(3A). If the person retains the title of “Justice of the Peace”,



the person is permitted from that point to exercise all the powers and carry out all the functions and duties of a Justice of the Peace under the principal Act or any other legislation without the restrictions imposed on that person while the person served as a Member of Parliament.

Clause 5 provides that nothing in this legislation affects the validity of any exercise of the jurisdiction, powers, functions or duties of a Justice of the Peace before the date of commencement of this legislation.

Clause 6 provides for transitional matters with respect to the continuity of ongoing proceedings before a court or tribunal. The clause provides that proceedings which are in progress on the commencement of this legislation may be continued unless —

- (a) there is a Member of Parliament who is also a Justice of the Peace on the court or tribunal; and
- (b) a party to the proceedings applies for the proceedings to be heard *de novo* on that basis.



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ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Act may be cited as the Summary Jurisdiction (Amendment) Act, 2024.

Amendment of section 7 of the Summary Jurisdiction Act (2024 Revision) - appointment of Justices of the Peace

2. The *Summary Jurisdiction Act (2024 Revision)*, in this Act referred to as the “principal Act”, is amended in section 7 by inserting after subsection (3), the following subsections —

“(3A) Notwithstanding subsections (1) and (3), the Governor may appoint a person who is a Member of Parliament to be a Justice of the Peace, *virtute officii*, by entering the designation of the office upon the Roll

of Justices of the Peace and by publication of the appointments in the Gazette.

- (3B) Notwithstanding subsection (4), a Justice of the Peace shall not, while serving as a Member of Parliament, exercise —
- (a) any jurisdiction in relation to criminal or civil investigations or proceedings, including —
 - (i) sitting on any court or tribunal or presiding at trials; and
 - (ii) making, issuing or otherwise authorising summonses, warrants, orders, convictions, recognisances and other processes of a court; and
 - (b) any of the powers, functions or duties of a Justice of the Peace under —
 - (i) the *Elections Act (2022 Revision)*, the *Parliamentary Pensions Act (2016 Revision)* or the *Police Act (2021 Revision)*; and
 - (ii) this or any other legislation which otherwise require the Member of Parliament to exercise judicial or quasi-judicial functions.”.

Repeal and substitution of section 8 - removal of Justices of the Peace

3. The principal Act is amended by repealing section 8 and substituting the following section —

“Removal of Justices of the Peace

8. (1) The Governor may direct that —
- (a) the name of a Justice of the Peace; or
 - (b) the entry in relation to an appointment as a Justice of the Peace *virtute officii* pursuant to section 7(3) or (3A),
- be removed from the Roll of Justices of the Peace.
- (2) Upon notification in the *Gazette*, in the prescribed manner, of the removal of the name of a Justice of the Peace or an entry in relation to an appointment *virtute officii* pursuant to section 7(3) or (3A), the named person or the holder of the appointment *virtute officii*, as applicable, ceases to be a Justice of the Peace.”.

Repeal and substitution of section 43D - retention of appointment

4. The principal Act is amended by repealing section 43D and substituting the following section —



“Retention of appointment

- 43D.**(1) A person appointed as a Justice of the Peace *virtute officii* pursuant to section 7(3) or (3A) and who is a Caymanian within the meaning of the *Immigration (Transition) Act (2022 Revision)* —
- (a) upon retirement, resignation or otherwise ceasing to be the holder of the office; or
 - (b) upon ceasing to be a Member of Parliament,
- as applicable, may retain the title and continue to serve as a Justice of the Peace unless there are reasons in law that would otherwise render the person unfit to serve.
- (2) Where a person appointed as a Justice of the Peace *virtute officii* pursuant to section 7(3A) ceases to be a Member of Parliament and retains the title of Justice of the Peace —
- (a) the restrictions referred to in section 7(3B) no longer apply in the exercise of the person’s powers, functions or duties as a Justice of the Peace; and
 - (b) that person may exercise any of the powers, functions or duties of a Justice of the Peace under this or any other legislation.”.

Previous exercise of duties by Justices of the Peace not affected

- 5.** Subject to section 6, nothing in this amending Act affects the validity of any exercise of the jurisdiction, powers, functions or duties of a Justice of the Peace before the date of commencement of this amending Act.

