

THE PARLIAMENT (MEMBERSHIP QUESTIONS)
ACT

ARRANGEMENT OF SECTIONS

1. Short title.
2. Interpretation.
3. Reference of questions about appointment to Senate or vacancy in either House.
4. Form, contents and lodgment of petitions.
5. Parties to a petition.
6. Security for costs.
7. Service of petition and notice.
8. Objections to security.
9. Petition at issue.
10. Consolidation or trial together of several petitions.
11. Trial of petition.
12. Witnesses.
13. Withdrawal and abatement of petition.
14. Costs.
15. Powers of the Court.
16. Service of notices and other documents.
17. Conclusion of trial of petition.
18. Appeal.
19. Application of rules of court.
20. Questions to which this Act relates arising in other proceedings.

PARLIAMENT (MEMBERSHIP QUESTIONS) ACT

Act
8 of 1963.

[27th June, 1966.]

1. This Act may be cited as the Parliament (Member- Short title.
ship Questions) Act.

2. In this Act—

Interpre-
tation.

“Clerk” means the Clerk of a House;

“costs” includes fees, charges and expenses;

“Court” means the Supreme Court;

“House” means the Senate or the House of Represen-
tatives as the context may require;

“member” means a member of a House;

“member concerned” means the member in relation to
whom a petition is presented;

“petition” means a petition authorized by this Act;

“prescribed” means prescribed by rules of court.

3.—(1) Any question whether—

Reference
of questions
about
appointment
to Senate or
vacancy in
either
House.

(a) a person has been validly appointed as a member
of the Senate; or

(b) a member of either House—

(i) has vacated his seat therein; or

(ii) is required under subsection (3) or (4) of
section 41 of the Constitution of Jamaica to
cease to exercise any of his functions as such
member,

shall be referred to and determined by the Court in accord-
ance with the provisions of this Act.

(2) Every such reference shall be by petition presented to the Court—

- (a) in relation to the Senate, by the Clerk by authority of a resolution of the Senate;
- (b) in relation to the House of Representatives by the Clerk by authority of a resolution of that House;
- (c) in relation to either House by the Attorney-General or by any other person.

Form, contents and lodgment of petitions.

4. The following matters shall be prescribed in relation to petitions—

The form; the matters to be stated therein; the person by whom a petition is to be signed; the manner in which and the time within which a petition is to be lodged in Court; and the manner in which a petition is to be published.

Parties to a petition.

5.—(1) Subject to subsection (2) the parties to a petition shall be—

- (a) the petitioner;
- (b) the member concerned; and
- (c) any other person who in the opinion of the Court is interested in the determination of the question referred and who is permitted by the Court to be heard upon the hearing of the reference.

(2) The Attorney-General may be a party to a petition; and, where a petition is presented by a person other than the Attorney-General, the Attorney-General if he is not a party thereto may intervene and (if he intervenes) he or a representative appointed by him shall be entitled to be heard and to adduce such oral or other evidence as he may think material.

6.—(1) A person (other than the Clerk or the Attorney-General) presenting a petition shall at the time of or within three days after the lodgment in Court of the petition give security for all costs that may become payable by him to any witness summoned on his behalf or to any party to the petition.

Security
for costs.

(2) Security for costs shall be an amount of six hundred dollars and shall be given by recognizance entered into by the prescribed number of sureties, or given otherwise in the prescribed manner.

7. The petitioner shall within the prescribed time cause a copy of the petition together with notice of the nature of the security and the presentation of the petition to be served in the prescribed manner upon—

Service of
petition and
notice.

- (a) the member concerned;
- (b) the Attorney-General; and
- (c) such other person as may be prescribed.

8.—(1) The respondent may within the prescribed time object in writing to any recognizance on the ground that any surety is insufficient or is dead or for want of a sufficient description in the recognizance cannot be found or ascertained, or that a person named in the recognizance has not duly acknowledged the recognizance.

Objections
to security.

(2) If the objection is allowed the petitioner may within a further prescribed time remove it by the deposit in the prescribed manner of such amount as will in accordance with subsection (3) make the security sufficient or by entering into a new recognizance in accordance with that subsection.

(3) An objection to a recognizance shall be heard and determined by the Registrar of the Court who shall where he allows the objection direct—

- (a) what amount is to be deposited in order to make the security sufficient; or
- (b) if the petitioner so requests, that a new recognizance be entered into to the satisfaction of such Registrar.

(4) If security is not duly given under section 6 or any objection is allowed and not removed as aforesaid no further proceeding shall be had on the petition.

Petition
at issue.

9. On the expiration of the time limited for objections or after objection made and disallowed or removed whichever last occurs the petition shall be at issue.

Consolidation
or
trial to-
gether of
several
petitions.

10. When two or more petitions are presented in respect of the seat of any individual member the Court may order that—

- (a) the petitions be consolidated; or
 - (b) the petitions be tried together,
- and may by such an order make such provisions as respects costs as the Court thinks just.

Trial of
petition.

11.—(1) A petition shall be tried by the Court in open court without a jury after notice of the time and place of trial have been given in the prescribed manner.

(2) The Court may in its discretion adjourn the trial from time to time but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.

(3) The trial of a petition shall be proceeded with notwithstanding the prorogation of Parliament.

12.—(1) Witnesses shall be summoned and sworn in like manner, as nearly as may be, as in action tried before the Court. Witnesses.

(2) The reasonable expenses incurred by any person in appearing to give evidence at the trial of a petition may be allowed to him according to the scale in force as respects civil actions before the Court, by a certificate of the Registrar of the Court and shall be costs of the petition.

13.—(1) A petition may not be withdrawn without leave of the Court granted on an application made in the prescribed manner on the prescribed notice and at the prescribed time. Withdrawal and abatement of petition.

(2) Leave to withdraw a petition shall be granted subject to such conditions as to costs and otherwise as the Court thinks just.

(3) A petition shall be abated by—

- (a) the death of the sole or surviving petitioner;
- (b) the death of the respondent; or
- (c) the dissolution of Parliament,

but such abatement shall not affect the liability of any party to the payment of any costs incurred in respect of any proceeding taken prior to the abatement.

14.—(1) Except as otherwise provided by or under this Act all costs of and incidental to the presentation of a petition and the proceedings consequent thereon shall be defrayed by the parties to the petition in such manner and such proportions as the Court shall determine; and in Costs.

particular any costs which in the opinion of the Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part of any party, and any needless expenses incurred or caused on the part of any party, may be ordered to be defrayed by the party by whom they have been incurred or caused whether or not that party is on the whole successful.

(2) If—

- (a) any petitioner to a petition neglects or refuses for six months after demand to pay to any witness summoned on his behalf or to any other party any sum certified to be due to that person or party for costs; and
- (b) such neglect or refusal is within one year after the demand proved in the prescribed manner to the satisfaction of the Court,

every person who under section 6 has entered into a recognizance in relation to that petition shall be held to have made default in the recognizance, and the Registrar to the Court shall thereupon certify the recognizance to be forfeited; and the recognizance shall thereupon be enforceable accordingly.

(3) The rules and regulations of the Court with respect to costs to be allowed in actions, causes and matters in the Court shall in principle and so far as practicable apply to the costs of petitions and other proceedings under this Act and the Registrar shall not allow any costs on a scale higher than that allowable in any action, cause or matter in the Court on the higher scale as between solicitor and client.

(4) Any costs or other amounts payable by order of the Court or otherwise under this Act by any person

shall be a simple contract debt due by that person to the person to whom they are to be paid and if payable to the Attorney-General shall be a debt due to the Crown and in either such case shall be recoverable accordingly.

15.—(1) Subject to the provisions of this Act the Court shall in relation to any proceedings brought under this Act have the same power, jurisdiction and authority as if those proceedings were an ordinary action within the jurisdiction of the Court.

Powers of the Court.

(2) Subject to sections 40 and 42 of the Judicature (Supreme Court) Act, any power conferred on the Court by or under this Act may be exercised by a single Judge.

16. The service of any summons, notice or other document required or authorized by or under this Act to be served shall be effected in the prescribed manner.

Service of notices and other documents.

17.—(1) At the conclusion of the trial of a petition the Court—

Conclusion of trial of petition.

- (a) in respect of an appointment to the Senate shall determine whether or not the person was validly appointed;
- (b) in respect of any such question as is referred to in paragraph (b) of subsection (1) of section 3 shall determine—

- (i) whether the member concerned has or has not vacated his seat; or
- (ii) whether the member concerned should in accordance with subsection (3) or (4) of section 41 of the Constitution of Jamaica cease to exercise any of his functions,

as the case may be.

(2) The determination on every petition shall be certified by the Court or, in the case of an appeal under section 18, by the Court of Appeal to the Speaker of the House of Representatives or where the Speaker is the respondent, to the Deputy Speaker or, as the case may require, to the Governor-General and to the President of the Senate.

(3) The Speaker of the House of Representatives, or the Deputy Speaker, as the case may be, shall notify the House of the determination on every petition certified by a court to him under subsection (2).

Appeal.

18.—(1) An appeal shall lie from the determination on a petition under section 17 to the Court of Appeal whose decision shall be final and conclusive to all intents and purposes.

(2) So much of the provisions of this Act, and with such modifications, as may be prescribed shall have effect in relation to an appeal under this section, and to the appellant and respondent in such appeal as they apply to a petition and to the petitioner and respondent in respect of such petition.

Application
of rules
of court.

19. Subject to any direction given by the Chief Justice rules of court shall apply to proceedings under this Act, as they apply to actions, causes or matters within the jurisdiction of the Court or of the Court of Appeal, as the case may be.

Questions
to which
this Act
relates
arising in
other pro-
ceedings.

20. Where in any proceedings before any other court or tribunal any such question arises as is referred to in section 3 that court or tribunal shall in the prescribed manner refer that question to the Court for its determination under this Act.