



**ST HELENA**

**A BILL**

**FOR**

**AN ORDINANCE**

**to amend the Magistrates' Court Ordinance, 2011, to permit the Chief Justice to preside as Chief Magistrate and to permit the remote attendance of a Justice; and for connected and incidental purposes.**

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Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

**Short title and interpretation**

**1. (1)** This Ordinance may be cited as the Magistrates' Court (Amendment) Ordinance, 2020.

**(2)** In this Ordinance "the principal Ordinance" means the Magistrates' Court Ordinance, 2011.

**Amendment of section 2 - Interpretation**

**2.** Section 2 of the principal Ordinance is amended in the definition of the term "Chief Magistrate" by inserting after the words "with section 7" the words "or, unless the context otherwise requires and subject to section 7A(2), where the Chief Magistrate does not attend a sitting of the Court the Chief Justice sitting as a Justice of the Court shall have the same power and may exercise the same authority of the Chief Magistrate under this or any other Ordinance;".

**Amendment of section 3 - Magistrates' Court**

**3.** Section 3 of the principal Ordinance is amended in subsection (3) and (4) by deleting the word "present" wherever this word appears substituting the words "attending the sitting".

**Insertion of section 7A - Sitting Chief Magistrate**

**4.** The principal Ordinance is amended by inserting after section 7 the following section—

**"Exercise of the power and authority of the Chief Magistrate**

**7A. (1)** Where for any reason the Chief Magistrate and the Chief Justice sitting as a Justice of the Court are attending the same sitting and constituting the Court the Chief Magistrate only shall have the power and exercise the authority of the Chief Magistrate under this or any other Ordinance.

**(2)** If the Chief Magistrate is not attending a sitting and constituting the Court and the Chief Justice is attending the sitting as a Justice of the Court and constituting the Court, the Chief Justice may at the discretion of the Chief Justice opt not to exercise the power or authority of the Chief Magistrate and in such a circumstance may attend the sitting and constitute the Court as an ordinary Justice of the Court.”.

### **Insertion of section 13A - Remote attendance**

**5.** The principal Ordinance is amended by inserting after section 13 the following section—

#### **“Remote attendance**

**13A. (1)** A Justice may, from a location outside of St Helena, attend a sitting and constitute the Court by such convenient remote method from the location wherever the Justice is physically situate.

**(2)** A Justice attending a sitting and constituting the Court in accordance with subsection (1) is deemed to have the rights and powers conferred by this or any other Ordinance and may properly exercise the jurisdiction of the Court under this or any other Ordinance.”.

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#### **EXPLANATORY NOTE**

*(This note is not part of the Ordinance)*

This Bill would make provision for the Chief Justice to exercise the powers of the Chief Magistrate if the Chief Justice opts to preside as Chief Magistrate rather than an ordinary Justice and would permit a Justice to attend a sitting of the Magistrates’ Court remotely.

Clause 1 of the Bill would make provision for citation and interpretation.

Clause 2 of the Bill would amend section 2 of the Ordinance so that the definition of the term Chief Magistrate would include the Chief Justice attending a sitting of the Court.

Clause 3 of the Bill would amend section 3 of the Ordinance so that the Justice to preside as chair may be selected from all the Justices comprising the Court including the Justices attending the sitting remotely.

Clause 4 of the Bill would insert section 7A of the Ordinance so as to ensure that where the Chief Justice as well as the Chief Magistrate were attending the same sitting of the Court, only the Chief Magistrate could sit in the capacity of Chief Magistrate and that the Chief Justice could in any event opt not to preside as the Chief Magistrate.

Clause 5 of the Bill would insert section 13A of the Ordinance so that a Justice may attend a sitting of the Court remotely.