



## **ST CHRISTOPHER AND NEVIS**

### **CHAPTER 3.17**

# **MAGISTRATE'S CODE OF PROCEDURE ACT**

#### **Revised Edition**

showing the law as at 31 December 2009

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Act 7 of 1976

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Act 10 of 1998

Act 20 of 1998

Act 9 of 1999

Act 33 of 2005

Act 25 of 2009

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## CHAPTER 3.17

### MAGISTRATE'S CODE OF PROCEDURE ACT

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## CHAPTER 3.17

### MAGISTRATE'S CODE OF PROCEDURE ACT

**AN ACT to make provision for the procedure to be followed in Magistrate Courts; and to provide for related or incidental matters.**

#### PART I – PRELIMINARY

1. **Short title.**

This Act may be cited as the Magistrate's Code of Procedure Act.

2. **Interpretation.**

In this Act, unless the context otherwise requires,

“past Act” means any enactment passed before the commencement of this Act;

“future Act” means any enactment passed subsequent to the commencement of this Act;

“adult” means a person who, in the opinion of the Magistrate before whom he or she is brought, is of eighteen years or upwards;

*[Amended by Act 8/1994]*

“child” means a person who, in the opinion of the Magistrate before whom he or she is brought, is under fourteen years and of sufficient age and capacity to commit crime;

“civil proceedings” mean all civil actions triable by a Magistrate and all proceedings in relation to the making of an order for the payment of any sums of money declared to be a civil debt as hereinafter mentioned or for the doing or abstaining from doing of any act or thing not enforceable by fine or imprisonment in the first instance as hereinafter mentioned;

“complaint” means a charge made not on oath and whether or not reduced into writing;

“conviction” means any summary conviction on a complaint or an information and includes any order made by a Magistrate on any matter brought before him or her on complaint or information;

“fine” includes penalty, any pecuniary forfeiture or pecuniary compensation or any sum of money or any costs payable under a conviction;

“guardian”, in relation to a child, includes any person who in the opinion of the Court having cognisance of any case in which a child is concerned has for the time being the charge of or control over such child;

“imprisonment in the first instance” means imprisonment imposed at the time of the making of a conviction or order;

“information” means a charge laid on oath and reduced into writing;

“Magistrate” means a District Magistrate and any justice or justices of the peace authorised by this or any other Act to perform the duties of a District Magistrate;

“offence” means any contravention of any law in force in the State or of the Common Law which is punishable or enforceable either on indictment or on summary conviction by fine, penalty or imprisonment;

“parent” includes the mother of and any person adjudged to be the putative father of a child born out of wedlock;

*[Amended by Act 19/1983]*

“peace officer” means any member of the Police Force and any local constable, and every other person lawfully authorised to discharge police duties;

“person” includes a child, young person, and adult and also includes a body corporate;

“Training School” means any reformatory, industrial or other school established under any Act of the State for the reformation, education and training of children and young persons;

“young person” means a person who, in the opinion of the Magistrate before whom he or she is brought, is fourteen years and under eighteen years.

*[Sections 1 and 2 have been renamed Part I, and Part I has been renumbered as Part II]*

## ***PART II – PERSONAL***

### **3. Division of State into Districts.**

For the purpose of holding Magistrates' Courts, the State is divided into districts as follows:

- (a) the island of Saint Christopher into two districts A and B;
- (b) the island of Nevis is one district C.

### **4. Boundaries of districts defined by Minister.**

The boundaries of the several districts in the State may be, from time to time, defined by Order of the Minister.

*[Amended by Act 6/1976]*

### **5. Appointment of District Magistrates.**

(1) It shall be lawful for the Governor-General, acting in accordance with the provisions of section 83 of the Constitution, to appoint, from time to time, a District

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Magistrate for each of the districts hereinbefore specified who shall hold office during pleasure.

(2) Notwithstanding anything contained in this Act it shall be lawful for the Governor-General, if he or she shall think fit, from time to time, by writing under his or her hand, to appoint an additional Magistrate for any District or Districts of the State and any such appointment from time to time to revoke.

(3) Every additional Magistrate so appointed shall have and possess within the district or districts for which he or she is appointed all the powers and jurisdiction vested in a District Magistrate appointed under this Act, and shall, subject to any general or special directions of the Governor-General perform within such district or districts as aforesaid all the duties now imposed on such District Magistrate.

**6. Ex-officio Magistrates.**

The Warden for the time being of Nevis, shall be ex-officio District Magistrate for district C, unless the Governor-General appoints any other person to be a Magistrate for such districts.

**7. Residence of Magistrates.**

Every District Magistrate shall reside in the district to which he or she is appointed:

Provided, that it shall be lawful for the Governor-General, if he or she thinks fit, to authorise any Magistrate in any island to reside in such part of the said island as the Governor-General may direct.

**8. Removal of Magistrates from one district to another.**

It shall be lawful for the Governor-General to remove any District Magistrate from one district to another:

Provided, that no Magistrate shall be removed to a district where the salary is less than that attached to the district to which he or she was last permanently appointed.

**9. Powers and duties of Magistrates.**

The District Magistrate shall have and possess all the powers and jurisdiction and shall perform all the duties which are now vested in or imposed upon District Magistrates or Justices of the Peace either at common law or by virtue of any enactment now in force, or which may hereafter be vested in or imposed upon such District Magistrates by virtue of any such enactment.

**10. Magistrates may act for each other and Governor-General may direct them to do so.**

Every Magistrate may act for or in the place of or assist another Magistrate in the discharge of his or her duties, and every Magistrate acting for or in the place of or assisting another Magistrate shall have the same power and jurisdiction, and be entitled to the same immunities and protections, as the Magistrate for whom he or she is acting or whom he or she is assisting has and is entitled to, and as though he or she were the Magistrate appointed to the district of such last mentioned Magistrate as aforesaid.

*[Amended by Act 6/1976]*

**11. Trial of cases during illness or absence of Magistrates.**

In the event of the absence or illness of any District Magistrate, or in any case where it appears to be expedient, it shall be lawful for the Governor-General to direct any fit and proper person to act for any such District Magistrate, and any such person so acting for a District Magistrate shall have the same powers and jurisdiction, and be entitled to the same immunities and protections, as the District Magistrate for whom he or she is acting has and is entitled to.

*[Amended by Act 6/1976]*

**12. Justices of the Peace.**

(1) Every District Magistrate shall be *ex officio* a Justice of the Peace of the State.

(2) Except as is otherwise provided in any Act, the Governor-General may, by Warrant under his or her hand, appoint any fit and proper person to be a Justice of the Peace for the State and may, in like manner, for such cause as may appear to him or her sufficient, remove any Justice of the Peace from his or her office.

*[Amended by Act 6/1976]*

(3) Every appointment or removal of a Justice of the Peace shall be notified in the *Gazette*.

*[Subsection (4) is no longer applicable]*

**13. Powers, functions etc. of Justice of the Peace.**

Subject to the provisions of this Act and of any other enactment, every Justice of the Peace shall have the same power as a Magistrate to issue a warrant of arrest or search warrant in any case in which and under the same conditions as a Magistrate might issue such a warrant, to take bail by recognisance with security for the appearance of any person before the District Magistrate on a day to be mentioned in such recognisance to be dealt with according to law, and to administer oaths in cases allowed by law, and for such purposes any such Justice of the Peace shall be entitled to the same immunities and protections as a Magistrate has and is entitled to:

Provided always that any warrant issued by a Justice of the peace under the authority of this section shall be returnable only before a Magistrate, and in any case in which such warrant is issued by a Justice of the Peace he or she shall forthwith forward to the District Magistrate the sworn information on which it was issued:

Provided further that nothing herein contained shall impose on Justices of the Peace any obligation to exercise the power reserved to them by this section.

*[Originally inserted as subsection (5) of section 12 by Act 1/197. Original section 13 deleted by Act 1/1971]*

**14. Salary of Magistrates and Additional Magistrates.**

The salary of every Magistrate and Additional Magistrate appointed to a district under this Act shall be such as may be provided by the National Assembly and shall be payable out of the Public Treasury.

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**15. Sittings to be appointed by Order.**

The Minister may by Order appoint the places where and the time when Magistrates' Courts shall be held in the several districts.

*[Amended by Act 6/1976]*

**16. Adjournment of sittings in Magistrate's absence.**

When any District Magistrate is unable to attend at any time appointed for the holding of a Magistrate's Court it shall be lawful for such District Magistrate, by writing under his or her hand, to adjourn such Magistrate's Court for any period not exceeding one week.

**17. Offices, clerks, and bailiffs.**

Suitable offices for holding Magistrates' Courts in each district shall be provided at the expense of the State, and it shall be lawful for the Governor-General to appoint such persons to act as clerks and bailiffs to the Courts of District Magistrates as he or she shall think necessary at such salaries as shall be, from time to time, voted by the National Assembly.

*[Amended by Act 6/1976]*

**18. Exclusive duty of Magistrate to investigate charges and complaints.**

(1) Every District Magistrate shall be a Magistrate for the State.

(2) It is hereby expressly declared and enacted that all and singular the powers and authorities heretofore vested in and exercised by Justices of the Peace under any enactment, shall continue and may be exercised by such Justices, save and except the investigation and adjudication of charges and complaints, which shall be investigated and adjudicated upon by a District Magistrate or an Additional Magistrate.

**19. Every action must allege that the act was done maliciously.**

Every action hereafter to be brought against any Magistrate for any act done by him or her in the execution of his or her duty as such Magistrate, with respect to any matter within his or her jurisdiction as such Magistrate, shall be in the nature of an action on the case as for a tort; and in the plaint it shall be expressly alleged that such act was done maliciously, and without reasonable and probable cause.

**20. Conditions under which action may be brought.**

For any act done by a Magistrate in a matter of which by law he or she has no jurisdiction, or in which he or she shall have exceeded his or her jurisdiction, any person injured thereby, or by any act done under any conviction or order made or warrant issued by such Magistrate in any such matter, may maintain an action against such Magistrate in the same form and in the same case as he or she might have done before the passing of this Act, without making any allegation in his or her plaint that the act complained of was done maliciously and without reasonable and probable cause:

Provided that no action shall be brought for anything done under such conviction or order until after such conviction shall have been quashed, either upon appeal or upon

application to the High Court or any Judge thereof; nor shall any such action be brought for anything done under any such warrant which shall have been issued by such Magistrate to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after such conviction or order shall have been so quashed as aforesaid; or if such last mentioned warrant shall not have been followed by any such conviction or order, or if it be a warrant upon an information for an alleged indictable offence, nevertheless, if a summons were issued previously to such warrant and such summons were served upon such person, either personally, or by leaving the same for him or her with some person at his or her last or most usual place of abode, and he or she did not appear according to the exigency of such summons, in such case, no such action may be maintained against such Magistrate for anything done under such warrant.

**21. Action to be brought against convicting Magistrate.**

Where a conviction or order shall be made by a Magistrate, and a warrant of distress or commitment shall be granted thereon by some other Magistrate *bonâ fide* and without collusion no action shall be brought against the Magistrate who granted such warrant by reason of any defect in such conviction or order or for any want of jurisdiction in the Magistrate who made the same, but the action (if any) shall be brought against the Magistrate who made such conviction or order.

**22. *Mandamus* to Magistrate refusing to act.**

In all cases where a Magistrate shall refuse to do any act relating to the duties of his or her office as such Magistrate, it shall be lawful for the party requiring such act to be done to apply to the High Court or any Judge thereof, upon an affidavit of the facts, for a rule calling upon such Magistrate and also the party to be affected by such act, to show cause why such act should not be done, and if, after due service of such rule, good cause shall not be shown against it, the said Court or any Judge thereof may make the same absolute with or without or upon payment of costs as to them shall seem meet; and the said Magistrate, upon being served with such rule absolute, shall obey the same, and shall do the act required, and no action or proceeding whatsoever shall be commenced or prosecuted against such Magistrate for having obeyed such rule and done such act so thereby required as aforesaid.

**23. Defect in conviction must not operate against Magistrate issuing warrant of distress.**

In all cases where a warrant of distress or warrant of commitment shall be granted by a Magistrate upon any conviction or order, which either before or after the granting of such warrant shall have been or shall be confirmed upon appeal, no action shall be brought against such Magistrate who so granted such warrant for anything which may have been done under the same by reason of any defect in such conviction or order.

**24. Judge may set aside proceedings in action.**

In all cases, where by this Act it is enacted that no action shall be brought under particular circumstances, if any such action shall be brought, it shall be lawful for a Judge of the Court in which the same shall be brought upon application of the defendant, and upon an affidavit of facts, to set aside the proceedings in such action, with or without costs, as to him or her shall seem meet.



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**25. Damages.**

In all cases where the plaintiff in any such action as aforesaid shall be entitled to recover, and he or she shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he or she seeks to recover, or if he or she prove that he or she was imprisoned under such conviction or order, and shall seek to recover damages for any such imprisonment, he or she shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of ten cents as damages for such imprisonment, or any costs of suit whatsoever if it shall be proved that he was actually guilty of the offence of which he or she was so convicted, or that he or she was liable by law to pay the sum he or she was so ordered to pay, and (with respect to such imprisonment) that he or she had undergone no greater punishment than that assigned by law for the offence of which he or she was so convicted, or for non-payment of the sum he or she was so ordered to pay.

*[Amended by Act 7/1976]*

**26. Costs.**

If the plaintiff in any such action as aforesaid shall recover a verdict or the defendant shall allow judgment to pass against him or her by default, such plaintiff shall be entitled to costs, in such manner as if this Act had not been passed; or if in such case it be stated in the plaint that the Act complained of was done maliciously and without reasonable and probable cause, the plaintiff, if he or she recovers a verdict for any damages, or if the defendant allow judgment to pass against him or her by default, shall be entitled to his or her full costs of suit, to be taxed as between attorney and client.

### **PART III – PRELIMINARY PROCEEDINGS**

**27. Jurisdiction of Magistrates.**

Every District Magistrate shall have jurisdiction

- (a) to receive complaints and information of all offences and to cause to be brought before him or her either by summons or warrant, all persons charged with such offences;
- (b) to issue search warrants as hereinafter provided;
- (c) to investigate all charges which he or she is not empowered to try summarily and to dismiss the accused or to commit him or her for trial before the Circuit Court;
- (d) to try summarily and to convict and sentence all persons charged with committing offences which he or she is empowered to try summarily by any enactment;
- (e) to make orders for the support, education, and burial of children born out of wedlock, and for the support of wives deserted by their husbands;

*[Amended by Act 19/1983]*

- (f) to make and give all such other convictions, sentences, and orders as under any enactment he or she is authorised to make or give and

which may be carried out and enforced by fine or imprisonment in the first instance;

- (g) to arbitrate in disputes relating to salvage and the title to wreck where the amount in dispute does not exceed five thousand dollars;

*[Amended by Act 8/1994]*

- (h) to try any

(i) civil action founded on contract when the debt, demand or value of the thing claimed, or rent in arrear is not more than twenty-five thousand dollars;

*[Amended by Acts 8/1994 and 33/2005]*

(ii) action founded in tort where the demand or damage claimed is not more than twenty-five thousand dollars:

*[Amended by Acts 8/1994 and 33/2005]*

Provided that the Magistrate shall not have any jurisdiction over any suits for malicious prosecution, false imprisonment, libel, slander, seduction or breach of promise of marriage;

- (i) to make orders for the paying of any sum of money declared by any enactment to be a civil debt and to be recoverable summarily;
- (j) to make orders for the doing or the abstaining from doing of any act prescribed to be done or not to be done by any enactment where such enactment does not prescribe that such order is to be enforced by fine or by imprisonment in the first instance;
- (k) to hear and determine actions of trespass and title to land wherein the damages or the value of the property claimed do not or does not exceed five thousand dollars:

Provided that the Magistrate may, either in his or her own discretion or upon the application of either party in any such case for special reasons which he or she shall record in writing in the record, order that the suit be transferred to the High Court for trial and determination;

*[Inserted by Act 15/1975 as 27(ff) and amended by Act 8/1994]*

- (l) to bind over persons to keep the peace and be of good behaviour;
- (m) to admit to bail persons charged with or committed for trial for any offence save only as hereinafter mentioned;
- (n) to bind over prosecutors and witnesses by recognisances to prosecute and give evidence;
- (o) to order the condemnation and sale of any vessel or thing liable to forfeiture on the committing of any offence punishable by a court of summary jurisdiction;
- (p) to enforce the payment of any fine imposed by them by warrant of distress or imprisonment;
- (q) to administer oaths to any person or persons for the purpose of levying penalties or making distresses directed to be levied or made

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by any enactment thereof or for the purpose of justifying upon oath the sufficiency of any bail;

- (r) to exercise the jurisdiction and powers given to a Magistrate under the Fugitive Offenders Act, 1881 of the Imperial Parliament, or any Acts amending the same of the Imperial Parliament;
- (s) to exercise all the powers of a Justice of the Peace or two Justices of the Peace and also of two Justices of the Peace in the United Kingdom under the Merchant Shipping Acts of the Imperial Parliament;
- (t) to exercise such other powers and do such other acts not hereinbefore mentioned as may be prescribed by this Act or by any other past or future enactment thereof or any Act of the Imperial Parliament;
- (u) to exercise jurisdiction in equity and, where there is a conflict between Law and equity, the rules of equity shall prevail and govern the proceedings.

*[Inserted by Act 15/1975]*

**28. When Magistrate may issue his or her summons.**

In all cases where a charge or complaint is made before a Magistrate

- (a) that any person has committed or is suspected of having committed any indictable offence within the limits of the jurisdiction of such Magistrate or that any person guilty or suspected to be guilty of having committed such offence as aforesaid out of the jurisdiction of such Magistrate is to be found or likely to be found within the limits of the same;
- (b) that any person, being within the jurisdiction of such Magistrate has committed or is suspected of having committed any offence punishable on summary conviction;
- (c) that any person, being within such jurisdiction as aforesaid, has done any act or omitted to do any act for which commission or omission as aforesaid he or she is liable to have an order made against him or her by such Magistrate for the payment of any fine or for the doing or the abstaining from doing any act;
- (d) that any person within such jurisdiction as aforesaid is likely to commit a breach of the peace;

the Magistrate may issue his or her summons directed to such person requiring him or her to appear before the Magistrate's Court at the time to be therein mentioned to answer the said charge or complaint and to be further dealt with according to law.

**29. How complaint to be laid.**

The charge shall (subject as hereinafter mentioned) be laid on complaint and the complaint may, in the discretion of the Magistrate, be reduced into writing.

**30. To be of one matter only at a time.**

Every complaint shall be for one matter only and not for two or more matters, except that it shall be lawful for the prosecutor to lay one or more complaints against the same person at the same time, and the Magistrate hearing the complaint may where he or she considers it necessary, deal with such complaints either together or separately.

**31. Information and complaint.**

(1) It shall be lawful for any person to make a complaint against any person committing an offence punishable on summary conviction unless it appears from the enactment on which the complaint is founded that any complaint for such offence shall be made only by a particular person or class of persons.

(2) It shall be lawful for any police officer to lay any information or make any complaint in the name of the senior police officer in the State and conduct any such proceedings on his or her behalf.

(3) Every information or complaint referred to in subsection (2) shall be signed by the police officer laying or making the same and such police officer shall be deemed for all purposes of this Act other than those specified in this subsection to be the complainant; and proceedings under any such information or complaint shall not lapse or be determined by reason of any change of the police officer in charge as aforesaid.

(4) No proceedings referred to in subsection (3) shall be dismissed by reason only of the failure of the police officer in charge as aforesaid to appear in person or by counsel or solicitor, provided that he or she be represented by any police officer for the time being present in Court.

**32. Magistrate has discretion to refuse summons.**

Nothing hereinbefore contained shall oblige any Magistrate to issue any such summons, and if the Magistrate in his or her discretion refuses to issue a summons, the person applying for the same may require the Magistrate to give him or her a written certificate of refusal and may apply to any Judge of the High Court for an order directing the Magistrate to issue the summons sought for on such summons as the Judge shall direct.

**33. How summons is to be served.**

Every summons shall be served by a peace officer or other person to whom the same may be delivered upon the person to whom it is directed by delivering it to him or her personally or if he or she cannot be conveniently found by leaving it with some person for him or her at his or her last or most usual place of abode.

**34. Offences committed on vessels within the waters of the State.**

Where any person has committed or is suspected of having committed any offence punishable on summary conviction in or upon any ship, vessel, or boat within any of the waters of the State, the same may be dealt with and determined by the Magistrate off the shores of whose district the ship, vessel, or boat may be at the time of the commission of the offence, or near to the shore of whose district the ship, vessel, or boat, after the commission of the offence, may anchor or touch, and any summons or warrant issued by

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such Magistrate in respect of the commission or supposed commission of such offence may be served or executed, as the case may be, on board of such ship, vessel, or boat while, or on any subsequent occasion when, such ship, vessel or boat is within the waters of the State.

**35. How service is to be proved.**

The person who serves the summons shall attend before the Magistrate at the time and place mentioned therein to depose if necessary to the service thereof.

**36. If the person summoned does not appear warrant may issue.**

If the person served with the summons does not appear at the time and place mentioned in the summons and it be made to appear to the Magistrate on oath that the summons was duly served within a reasonable time before the time of his or her appearance as aforesaid the Magistrate after taking such evidence on oath to substantiate the matter of the complaint as he or she shall consider necessary may issue his or her warrant to apprehend the person so summoned as aforesaid and to bring him or her before a Magistrate to answer to the said complaint and be further dealt with according to law.

**37. When a warrant may issue in the first instance.**

(1) In all cases where a charge is made in respect of an offence punishable either on indictment or on summary conviction the Magistrate, if he or she thinks it expedient that a warrant be issued in the first instance, may take an information and require such evidence in that behalf as he or she considers necessary to substantiate the matter of the information and may issue his or her warrant in the first instance to apprehend such person as aforesaid and to cause him or her to be brought before him or her or any other Magistrate in the State to answer the charge and to be dealt with according to law.

(2) The Magistrate may issue such warrant as aforesaid notwithstanding that a summons in respect of the matter charged has been issued at any time before the time of appearance in such summons mentioned:

Provided that where a warrant is issued in the first instance the Magistrate shall furnish a copy or copies thereof and cause a copy to be served on each party apprehended.

**38. Magistrate or Justice of the Peace may direct security to be taken.**

(1) Every Magistrate or Justice of the Peace issuing a warrant under this Act for the arrest of any person in respect of any offence, other than murder or treason, shall, if in his or her opinion such person should be admitted to bail on his or her arrest, by endorsement on the warrant direct that if such person executes a recognisance with sufficient sureties for his or her attendance before a court at a specified time and thereafter until otherwise directed by the court the officer in charge of the Police Station to which such person is brought on his or her arrest shall take such security and release such person from custody and the provisions of section 205 shall apply to such recognisance.

(2) The endorsement shall state

(a) the number of sureties;

- (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound; and
  - (c) the time at which he or she is to attend before the Court.
- (3) The officer in charge of any Police Station to which any such person is brought on his or her arrest shall comply with the directions endorsed on the warrant of arrest and whenever security is taken under this section he or she shall forward the recognisance to the court.

*[Inserted by Act 1/1971 as section 37A. Note: Sections 38 to 45 (inclusive) have been renumbered accordingly and this Part has been renumbered as Part III because of renumbering sections 1 & 2 as Part I and Part I as Part II]*

**39. As to warrant when offence is committed on the high seas and beyond sea.**

In all cases of indictable offences committed on the high seas or in any creek, harbour or in other place in which the Admiralty of England have or claim to have jurisdiction and in all cases of offences committed on land beyond the seas for which an indictment may be preferred or the offender may be arrested in the State the Magistrate may on information laid as mentioned in section 37 issue his or her warrant to apprehend such person to be dealt with as herein and hereby directed.

**40. As to form of warrant.**

Every warrant issued by a Magistrate to apprehend any person may be issued at any time or on any day and shall be under the hand and seal of the Magistrate; and may be directed to a member of the Police Force and to all peace officers of the State; and it shall state shortly the act charged and shall name or otherwise describe the person to be apprehended and it shall order the person or persons to whom it is directed to apprehend the person so named or described as aforesaid and bring him or her before the Magistrate issuing the warrant or before some other Magistrate of the State to answer the charge and to be further dealt with according to law.

**41. When and where warrant may be executed.**

It shall not be necessary to make the warrant returnable at any particular time but the same may remain in force until executed, and it may be executed by any peace officer in any part of the State without being backed by any other Magistrate in any other district.

**42. Proceedings on arrest.**

When a person has been apprehended under a warrant he or she shall be brought before the Magistrate so issuing the warrant, or any Magistrate acting for him or her, who shall thereupon either by his or her warrant commit him or her to prison or verbally to the custody of the officer apprehending him or her, or to such other safe custody as he or she thinks fit and may order him or her to be brought up at a certain time and place before him or her, and shall give notice of such order to the person laying the information or complaint but no committal under this section shall exceed one week.

**43. Proceedings on arrest without warrant.**

A person taken into custody for any offence without a warrant shall be brought before a Magistrate as soon as practicable after he or she is so taken into custody and if it

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is not, or will not be practicable to bring him or her before a Magistrate within 24 hours after he or she has been so taken into custody any member of the Police Force in charge of any police station shall enquire into the case and except where the offence appears to him or her to be of a serious nature shall discharge the prisoner upon his or her entering into a recognisance with or without sureties for a reasonable amount to appear before some Magistrate at the time and place mentioned in the recognisance.

**44. Search warrant.**

(1) Where a Magistrate is satisfied on evidence upon oath that there is reasonable cause to believe that any property whatsoever on or with respect to which any larceny or other felony has been committed is in any place or places he or she may grant a warrant to search such place or places for such property, and if the same or any part thereof be there found to bring the same before the Magistrate granting the warrant or some other Magistrate of the State.

(2) Any search warrant may be issued and executed at any time, and may be issued and executed on a Sunday.

**45. Warrant not to lapse on death or removal of Magistrates.**

A warrant or summons issued by a Magistrate shall not be avoided by reason of the Magistrate who signed the same dying or ceasing to hold office.

**46. Different Magistrates.**

It shall not be necessary that the Magistrate who acts before or after the hearing of a case should be the Magistrate by whom the case is or was heard and determined.

## **PART IV – PRELIMINARY INQUIRIES**

**47. Court House not to be an open Court.**

(1) The room or place in which a Magistrate shall hold a preliminary inquiry shall not be deemed an open Court for that purpose.

(2) It shall be lawful for the Magistrate in his or her discretion to order that no person shall have access to or be or remain in such room or place, the counsel or solicitor of any person then being in Court as a prisoner only excepted, without the consent of the Magistrate if it appears to him or her that the ends of justice will be best answered by so doing.

*[Originally section 46. Note: Sections 47 to 72 (inclusive) have been renumbered accordingly and this Part has been renumbered as Part IV]*

**48. Preliminary inquiry where case not triable summarily.**

Whenever any charge has been brought against any person of an offence not triable summarily a preliminary inquiry shall be held as hereinafter provided.

49. **Summary trial of juvenile for indictable offences.**

Where a child or young person is charged with an indictable offence, other than homicide, the Magistrate may, without consulting the parent or guardian of the child or young person, deal with him or her summarily and shall so deal with him or her unless some other person who is charged jointly with him or her and is not a child or young person is committed for trial, in which case the Magistrate may, if in the interests of justice he or she thinks it necessary so to do, also commit the child or young person for trial.

50. **Power to remand in order to secure the presence of parent or guardian.**

Where the parent or guardian of such child or young person as aforesaid is not present when the charge is being heard by the Magistrate, the Magistrate may remand such child or young person as aforesaid for the purpose of causing notice to be served on such parent or guardian with a view as far as practicable of securing his attendance at the hearing of the charge, or the Magistrate may deal with the case summarily.

51. **Where an adult may be tried summarily.**

Where an adult is charged with any indictable offence set forth in the second column of the First Schedule, the Magistrate at any time during the hearing of the case may, having regard to all the circumstances of the case, cause the charge to be reduced into writing and read to the person charged and he or she shall then question him or her to the following effect:

“Do you desire to be tried by a jury or do you consent to the case being dealt with summarily?”;

and shall add a statement if necessary of the meaning of the case being dealt with summarily and of the time at which he or she would probably be tried by the Circuit Court and if he or she does not object to be tried summarily the Magistrate may deal summarily with the case as hereinafter provided.

52. **Where an adult pleading guilty may be dealt with summarily.**

Where an adult is charged with an indictable offence set forth in the first column of the First Schedule and the Magistrate at any time during the hearing of the case becomes satisfied that the evidence is sufficient to put the person so charged on his or her trial and also satisfied that the case, having regard to all the circumstances, is one which may be properly dealt with and adequately punished under this Act, he or she may cause the charge to be reduced into writing and read to the person charged and shall then explain to such person as aforesaid that he or she is not obliged to plead or answer and that if he or she pleads guilty he or she will be dealt with summarily and that if he or she pleads not guilty he or she will be dealt with in the usual course and shall if necessary add a statement of the meaning of the case being dealt with summarily and in the usual course and a statement as to the time at which he or she would probably be tried by the Circuit Court and shall further explain to him or her that he or she is not obliged to say anything unless he or she desires to do so, but that whatever he or she says will be taken down in writing and may be given in evidence upon his or her trial and shall give him or her clearly to understand that he or she has nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to him or her to induce him or her to



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make any admission or confession of his or her guilt but that whatever he or she then says may be given in evidence upon his or her trial notwithstanding such promise or threat and shall then ask him or her whether he or she is guilty or not of the charge and if he or she says that he or she is guilty the Magistrate shall thereupon deal with him or her summarily as hereinafter provided; and if he or she says that he or she is not guilty, the Magistrate shall proceed as herein provided for the procedure at a preliminary inquiry.

**53. Reduction of charge from indictable to summary offence.**

Where, on the holding of any preliminary inquiry on a charge of an indictable offence, the Magistrate is of opinion that the evidence establishes, or appears likely to establish, the commission of a summary offence of a like kind to the offence charged, or an abetment of, or an attempt or incitement to commit, that summary offence, the Magistrate may, if he or she thinks fit, inform the accused person accordingly, and all further proceedings in the matter thereafter shall be the same as if a complaint had been made against the person for the latter offence or abetment, attempt, or incitement.

**54. Power to remand in order to ascertain if case should be dealt with summarily.**

Where a person is charged with an indictable offence with which the Magistrate may have power to deal summarily, the Magistrate may for the purpose of ascertaining whether it is expedient to deal with the case summarily, either before or during the hearing of the case, from time to time adjourn the case and remand the person accused.

**55. Evidence to be taken on oath.**

When the accused appears or is brought before the Magistrate, the Magistrate, except where otherwise in this Act provided, shall take the evidence upon oath of the witnesses called in support of the charge offered on the part of the prosecution.

**56. Witness to be examined in presence of accused who may cross-examine.**

The evidence of every witness shall be given in the presence of the accused and he or she or his or her counsel or solicitor shall be entitled to cross-examine such witness upon all facts relevant to the charge, but not, except with leave of the Court, upon matter relevant only as affecting his or her credit.

**57. Depositions.**

(1) As each witness gives his or her evidence the material part of it shall be taken down in writing by the Magistrate in narrative form, or, if and so far as the Magistrate may think fit, in the form of question and answer:

Provided that if the Magistrate is from any cause unable to take down the evidence in writing, the same shall be taken down in writing by the Clerk of the Court under the Magistrate's direction.

(2) The evidence of a witness so taken down shall be read over to the witness and shall be signed by him or her and by the Magistrate, and such evidence so taken down and read over and signed as aforesaid shall be deemed to be a deposition.

**58. Magistrate to take notes of evidence.**

A Magistrate shall in all cases, other than criminal cases to which section 57 applies take notes in writing of the evidence, or of so much thereof as is material, in a book to be kept for that purpose, and such book shall be signed by the Magistrate at the conclusion of each day's proceedings:

Provided that if the Magistrate is from any cause unable to take such notes the same shall be taken by the Clerk of the Court under the Magistrate's direction.

**59. Magistrate to dismiss the charge or call on accused for his or her defence.**

When the examination of all the witnesses for the prosecution is completed, the Magistrate may either dismiss the charge and if the accused is in custody make an order for his or her release or he or she may call upon the accused for his or her defence as hereinafter provided.

**60. Mode of calling on accused for his or her defence.**

If the Magistrate shall not dismiss the charge he or she shall say to the accused these words or words to the like effect:

“Having heard the evidence do you wish to say anything in answer to the charge? You are not obliged to do so unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial. And I give you clearly to understand that you have nothing to hope from any promise of favour and nothing to fear from any threat that may have been held out to you to induce you to make any admission or confession of your guilt, but whatever you now say may be given in evidence on your trial notwithstanding such promise or threat”

and whatever the prisoner then says in answer thereto shall be taken down in writing and read over to him or her and shall be signed by the Magistrate and kept with the depositions of the witnesses and shall be transmitted with them as hereinafter mentioned:

Provided that nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession or other statement made at any time by the person accused or charged which by law would be admissible in evidence against him or her.

**61. Accused may show cause and call witnesses.**

The accused or his or her counsel or solicitor may then show cause why the Magistrate should not commit him or her for trial and may call witnesses in his or her defence and their evidence shall be taken in the same manner and form as that of the witnesses for the prosecution and if duly taken, read over, and signed, shall be deemed to be depositions.

**62. Magistrate to dismiss the charge or to commit for trial.**

When the accused has been heard and his or her witnesses (if any) examined, the Magistrate shall either dismiss the charge and if the accused be in custody make an order for his or her release, or shall commit him or her for trial before the Circuit Court which

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shall next be held after such committal as aforesaid in the Circuit in which the offence charged has been committed:

Provided that if the day of committal shall be so near the day for the holding of the Circuit Court that in the opinion of the Magistrate it would not be practicable for the case to be tried by such Circuit Court as aforesaid, it shall be lawful for him or her to commit the accused to the Circuit Court next following such Circuit Court as aforesaid.

**63. Prosecutor and witnesses to be bound over to appear at trial of accused.**

(1) It shall be lawful for any Magistrate upon committing any accused person for trial to bind by recognisance as hereinafter prescribed the prosecutor and all witnesses giving evidence to appear at the Circuit Court before which the accused person is to be tried then and there to prosecute, or to prosecute and give evidence or to give evidence, as the case may be.

(2) The Magistrate shall, except where in this Act it is otherwise provided, cause the several recognisances so taken together with the written information (if any) the depositions, the statement of the accused and the recognisances of bail (if any) to be forthwith delivered to the Registrar:

Provided that if any witness shall refuse to enter into or acknowledge such recognisance as aforesaid it shall be lawful for the Magistrate by his or her warrant to commit him or her to prison there to be safely kept until after the trial of such accused person as aforesaid unless in the meantime such witness shall duly enter into such recognisance before a Magistrate.

**64. Accused on committal to be committed to prison, unless bailed.**

When the Magistrate has committed the accused person for trial he or she shall, unless he or she shall admit such person to bail, as hereinafter provided, commit him or her by his or her warrant to the prison to which he or she may by law be committed, to be there safely kept until delivered in due course of law.

**65. Peace officer to convey him or her to prison and deliver him or her to gaoler.**

The peace officer or other person to whom any warrant of commitment is directed shall convey the accused person therein named or described to the prison therein mentioned and there deliver him or her together with the warrant to the keeper of such prison who shall thereupon give to such peace officer or other person as aforesaid a receipt for the prisoner setting forth the state and condition of the prisoner when delivered into his or her custody.

**66. Right of accused persons to bail.**

(1) Where the offence with which the accused person is charged is a misdemeanour punishable with fine or with imprisonment, with or without hard labour, for any term not exceeding two years, the accused person shall be entitled to be admitted to bail as is hereinafter mentioned.

(2) Where the offence with which the accused person is charged is a misdemeanour punishable otherwise than as is hereinbefore in this section mentioned, or, subject to the exceptions hereafter in this section mentioned, is a felony, the Magistrate may, in his or her discretion, admit the accused person to bail as is hereinafter mentioned.

(3) Notwithstanding subsections (1) and (2), a person shall not be admitted to bail, except by order of the High Court, if

- (a) that person is charged with treason, misprision of treason, treason felony, or murder;
- (b) that person is charged with any of the offences specified in the Eighth Schedule to this Act.

(4) A person who is charged with an offence under paragraph 1 or 3 of the Eighth Schedule to this Act, may be admitted to bail on completion of the preparation of the case by the prosecution, if that person is not to reside in the same household as the complainant or is not to interfere with the complainant.

(5) Where a bail application is heard, in any court, no court shall entertain another bail, application unless there is a change in circumstances.

(6) An inordinate delay in bringing a case to trial may be deemed to be a change in circumstances.

(7) What constitutes an inordinate delay under subsection (6) shall be a question of fact to be decided by the court.

*[Amended by Act 33/2005]*

**67. Magistrate may admit to bail at any time.**

In cases mentioned in section 66 the Magistrate at any time before the first day of the sitting of the Court at which the accused is to be tried, may admit him or her to bail as hereinafter provided or may certify on the back of the warrant of committal, the amount of bail to be required in which case any other Magistrate may admit the accused to bail in such amount at any time before such first sitting of the Court as aforesaid.

**68. When Magistrate may admit to bail on adjournment of hearing.**

Where any person appears or is brought before a Magistrate charged with a misdemeanour or a felony other than treason or felony punishable with death, and it becomes necessary to adjourn the inquiry and to remand the accused, or to complete the inquiry before a Magistrate in some other district, then in the case of a charge of misdemeanour as aforesaid and in the case of a charge of a felony as aforesaid where the Magistrate shall not consider the evidence given to be sufficient to put the accused upon his or her trial, or to raise a strong presumption of guilt, the Magistrate may admit the accused to bail as hereinafter prescribed until such time as the inquiry shall be resumed.

**69. Warrant of deliverance.**

In all cases where the Magistrate admits to bail any person charged with the offence for which he or she is so admitted to bail he or she shall cause to be lodged with the keeper of the prison in which such accused person is detained a warrant of deliverance under his or her hand and seal requiring such keeper to discharge the person so admitted to bail if he or she be not detained for any other offence, and upon such warrant being lodged with the keeper as aforesaid he or she shall forthwith obey the same.

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**70. Person bailed to enter into recognisances for his or her reappearance.**

Every accused person before being admitted to bail shall enter into recognisances as hereinafter prescribed either with or without a surety or sureties at the discretion of the Magistrate before whom they are taken conditioned for his or her appearance at the time and place mentioned in such recognisance.

**71. Judge may order accused to be admitted to bail.**

In all cases of felony or suspicion of felony and in all cases of misdemeanour when an accused person has been committed for trial as hereinbefore provided or as provided by any Act in force in the State relating to the duties of Coroners, any Judge of the Supreme Court may on application made to him or her for that purpose and on notice to the Director of Public Prosecutions or in his or her absence then to the officer if any for the time being in charge of the police in the State, order such accused person to be admitted to bail on entering into recognisances with sufficient sureties before a Magistrate in such amount as the Judge shall direct and thereupon the Magistrate shall issue a warrant of deliverance and shall attach thereto a copy of the order directing the admission of such person to bail.

*[Amended by Act 12/1967]*

**72. Notice of application to Judge to be given to committing Magistrate or Coroner.**

(1) When any person has been committed for trial by any Magistrate or Coroner, the prisoner, his or her counsel or solicitor may notify to the committing Magistrate or Coroner that he or she will so soon as counsel can be heard move before one of the Judges of the High Court to admit the prisoner to bail.

(2) Whereupon such committing Magistrate or Coroner if the same are in his or her possession shall with all convenient speed transmit to the Registrar of the Circuit in which such person as aforesaid has been committed to take his or her trial all information and evidence touching the offence with which the prisoner has been charged together with a copy of the warrant of commitment and inquest (if any).

**73. Accused entitled to a copy of depositions on payment.**

At any time after all the witnesses have been examined and before the first sitting of the Court to which the accused is committed for trial the accused may require and shall be entitled to have from the officer having the custody of the same, copies of the depositions on which he or she has been committed on payment of a reasonable sum for the same not exceeding the rate of four cents for each folio of 100 words.

**74. Power of Director of Public Prosecutions in serious cases.**

(1) Notwithstanding anything contained in this Part, where the Director of Public Prosecutions is of the opinion, in any case where a person is charged with an indictable offence, that the evidence of the offence charged

(a) would be sufficient for the person charged to be committed for trial;

- (b) reveals a case of such seriousness or complexity that it is appropriate that the management of the case should, without delay, be taken over by the High Court; and
- (c) before the Magistrates' Court in whose jurisdiction the offence has been charged begins to inquire into the case as examining justices the Director of Public Prosecutions gives a notice of his or her intention to transfer the case,

the case shall, subject to this section, be transferred to the High Court without the need for a preliminary inquiry.

(2) Where the Director of Public Prosecutions gives a notice of transfer pursuant to subsection (1),

- (a) he or she shall notify the District Magistrate and the accused in writing, of his or her decision;
- (b) he or she shall submit copies of the statements and all other relevant documents to the District Magistrate; and
- (c) the accused person shall be served with a copy of all statements recorded from potential witnesses.

(3) Upon receipt of the information referred to in subsection (2)(a) and (b), the District Magistrate shall summon the accused person to court and inform him or her of the decision of the Director of Public Prosecutions, and thereafter transfer the case to the High Court for trial, in which case the statements referred to in subsection (2) shall be forwarded to the Registrar's Office in the same manner as if they were depositions.

(4) Where a person whose case is transferred under subsection (3) is in custody and the offence is not an offence mentioned in the Fourth Schedule to this Act, the Magistrates' Court may grant the accused person bail to appear at the assizes to which the person has been committed.

(5) Where a notice of transfer is given after a person to whom the notice relates has been remanded on bail to appear before the Magistrates' Court on an appointed day, the requirement that he or she shall so appear shall cease on the giving of the notice, unless the contrary is specified in the notice.

(6) Where the requirement that a person to whom the notice of transfer relates shall appear before a Magistrates' Court ceases by virtue of subsection (5), then the accused person shall appear before the High Court at the place specified in the notice of transfer.

(7) If it is specified in the notice the requirement is to continue, when a person to whom the notice relates appears before the Magistrates' Court, the court may, in exercising the powers conferred on it by subsection (3) exercise such powers that will ensure that the accused person appears before the High Court.

(8) The Minister of Legal Affairs may make regulations relating to notices of transfer in order to give effect to the provisions of this section.

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(9) For the purposes of subsection (1)(b) of this section, before the Director of Public Prosecutions forms the opinion referred to in that subsection, he or she shall take into account the following factors, that is to say,

- (a) the nature of the offence;
- (b) the nature of the evidence;
- (c) the number of witnesses; and
- (d) any other relevant factors.

*[Inserted by Act 33/2005 as section 72A]*

## **PART V – SUMMARY JURISDICTION (CRIMINAL)**

### **75. Court house to be an open Court.**

The room or place in which the Magistrate sits shall be deemed an open Court.

*[Originally section 73. Note: At the 2002 cut-off date sections 74 to 118 (inclusive) were renumbered accordingly and this Part renumbered as Part V. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

### **76. Either party may appear in person or by counsel.**

The person bringing the charge and the person charged may conduct their own case or may appear by counsel or solicitor.

### **77. Limitation six months unless otherwise provided.**

In all cases where no time is specially limited for making any charge in the Act or law relating to the particular case such charge shall be made within six months from the time when the matter of the charge arose.

### **78. Where accused liable to imprisonment for more than six months he or she may claim to be committed for trial.**

(1) When a person is charged with any offence punishable on summary conviction with imprisonment for a period exceeding six months the Magistrate shall address him or her to the effect following:

“You are charged with an offence in respect to the commission of which you are entitled if you desire it instead of being dealt with summarily to be tried by a jury. Do you desire to be tried by a jury?”;

and he or she shall add a statement if necessary of the meaning of being dealt with summarily and of the probable time at which such person would be tried if tried at the Circuit Court.

(2) If such person shall elect to be tried by a Jury the Magistrate shall deal with the case as though such person had been charged with an indictable offence not triable summarily and the offence with which he or she is charged shall be deemed to be an indictable offence:

Provided that this section shall not apply to a child unless the parent or guardian of such child is present and if the parent or guardian of such child is present the Magistrate shall address the above question to such parent or guardian:

Provided also that nothing in this section or Act contained shall in any way interfere with or curtail the summary jurisdiction of Magistrates in trials of offences

- (a) under the Small Charges Act, Cap. 4.36;
- (b) under the Obeah Act, Cap. 4.20;
- (c) where the Magistrate himself or herself is given a discretion to try the case summarily or commit the offender for trial for an indictable offence;
- (d) under the Sedition and Undesirable Publications Act.

**79. If defendant does not appear Magistrate may proceed *ex parte*.**

If at the time and place of hearing mentioned in a summons the defendant does not appear and it be proved on oath that the summons was duly served on him or her a reasonable time before the time appointed for his or her appearance, and if the Magistrate does not think it expedient to issue his or her warrant for the apprehension of such person the Magistrate may proceed *ex parte* to adjudicate on the case as fully as if the defendant had duly appeared.

**80. If prosecutor does not appear Magistrate may dismiss or adjourn.**

If at the time and place appointed the defendant appears, or is brought before the Magistrate, and the person making the charge, having had due notice does not appear, the Magistrate shall dismiss the charge unless he or she thinks it proper to adjourn the hearing till some other day.

**81. If neither party appears Magistrate may dismiss or adjourn.**

If at any time and place appointed neither party appears the Magistrate may dismiss or adjourn the case as to him or her shall seem fit.

**82. If on adjourned hearing either party does not appear Magistrate may proceed.**

If at the time and place appointed for any adjourned hearing either or both parties do not appear the Magistrate may then and there proceed with the further hearing of the case as if the party or parties were present.

**83. If both parties appear case to proceed.**

If both parties appear the Magistrate shall cause the substance of the charge to be stated to the defendant and shall ask him or her if he or she has any cause to show why he or she should not be convicted.

**84. If defendant pleads guilty Magistrate to convict him or her.**

If the defendant admits the truth of the charge and if he or she shows no cause as aforesaid, the Magistrate shall convict him or her.



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**85. If defendant pleads not guilty Magistrate to hear evidence of both parties.**

If he or she does not admit the truth of the charge the Magistrate shall hear the prosecutor, and such evidence as he or she may adduce and shall also hear the defendant and such evidence as he or she shall adduce in his or her defence and also such evidence as shall be tendered in reply if the defendant has given any evidence other than as to his or her character.

**86. Cross complaints and Joint trials.**

(1) Where a complaint is laid by one or more parties against another party or parties, and there is a cross complaint by the defendant or defendants in such first named case either by himself or herself or themselves or together with another person or other persons against the complainant or complainants in the first named case either by himself or herself or themselves or together with another person or other persons, and such cross complaints are with reference to the same matter, the Magistrate may, if he or she thinks fit, hear and determine such complaints at one and the same time.

(2) Where a complaint is made by member of the Police Force against another party or parties and there is a complaint by the defendant or defendants by himself or herself or themselves against any other party or parties and such complaints are with reference to the same matter or are founded on the same facts, the Magistrate may, if he or she thinks fit, hear and determine such complaints at one and the same time.

*[Inserted by Act 21/1969]*

(3) Where two or more complaints are made by one or more parties against another party or parties and such complaints refer to the same matter or are founded on the same facts such complaints may, if the Magistrate thinks fit, be heard and determined at one and the same time:

Provided however that if before or during the course of the trial together of several complaints it appears to the Magistrate acting in his or her own deliberate judgment that any defendant is or may be unduly prejudiced in his or her defence by such joint trial, he or she shall adjourn for a separate trial any complaint or complaints as it may seem to him or her fair and just so to do.

*[Inserted by Act 21/1969]*

**87. Neither party to have right of reply on the other.**

The prosecutor shall not be entitled to make any observations in reply upon the evidence given by the defendant nor the defendant upon the evidence given in reply by the prosecutor, but this shall not preclude counsel on either side from addressing the Court on the whole case.

**88. Magistrate then to determine the case.**

The Magistrate shall then consider the whole matter and determine the same, and shall either dismiss the charge or convict the defendant.

**89. Offence charged-attempt proved. Attempt charged-full offence proved.**

(1) Where the complete commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the defendant may be convicted of such attempt and punished accordingly:

Provided that, after conviction for such attempt, the defendant shall not be liable to be prosecuted again for the same offence which he or she was charged with committing.

(2) Where an attempt to commit an offence is charged, but the evidence establishes the commission of the full offence, the defendant shall not be entitled to have the complaint dismissed, but he or she may be convicted of the attempt and punished accordingly:

Provided that, after conviction for such attempt, the defendant shall not be liable to be prosecuted again for the offence which he or she was charged with attempting to commit.

**90. If he or she dismisses the case defendant entitled to certificate of dismissal.**

If the Magistrate dismisses the case upon the merits he or she may, when required to do so, make an order of dismissal and give the defendant a certificate thereof which shall without further proof be a bar to any subsequent charge for the same matter against the same party.

**91. If he or she convicts conviction to be drawn up.**

If the Magistrate shall convict the defendant a minute or memorandum therefor shall be then made for which no fee shall be paid and the conviction shall subject to any rules made in pursuance of this Act, afterwards be drawn up by the Magistrate in proper form under his or her hand and seal.

**92. Magistrate may award costs to prosecutor.**

In all cases of summary conviction the Magistrate may in his or her discretion award and order that the defendant shall pay to the prosecutor such costs as to the Magistrate shall seem reasonable not exceeding five hundred dollars.

*[Amended by Act 8/1994]*

**93. Magistrate may award costs to the defendant.**

In all cases where the Magistrate dismisses the charge he or she may in his or her discretion award and order that the prosecutor shall pay to the defendant such costs as to the Magistrate may seem reasonable not exceeding five hundred dollars.

*[Amended by Act 8/1994]*

**94. Costs recoverable with the fine.**

The sums so allowed for costs shall in all cases be specified in the conviction or order of dismissal and the same shall be recoverable in the same manner and by the same warrants as any fine adjudged to be paid by the conviction is to be recovered, and where

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there is no fine to be recovered such costs shall be recoverable by distress as hereinafter provided, and in default of distress by imprisonment with or without hard labour for any time not exceeding one month which may be made to commence at the termination of the imprisonment the defendant shall be then undergoing, unless such costs and all costs and charges of the distress and also the costs and charges of the commitment and conveying of the defendant to prison, if the Magistrate shall think fit so to order, are sooner paid.

**95. Defendant's costs recoverable by distress.**

Where any charge is dismissed with costs the sum awarded for costs in the order of dismissal may be recovered by distress in the same manner as costs may be recovered under section 94.

**96. No costs if fine does not exceed five dollars.**

Where a fine adjudged by a conviction to be paid does not exceed five dollars then, except so far as the Magistrate may think fit expressly to order otherwise, an order shall not be made for payment by the defendant to the prosecutor of any costs.

**97. Powers re imprisonment and fine.**

(1) In all cases where a Magistrate has jurisdiction to inflict imprisonment he or she may order the imprisonment to be without hard labour, and reduce the prescribed period thereof or do either of such acts.

(2) Where the Magistrate has jurisdiction to impose a fine, if it be in respect of a first offence, he or she may reduce the prescribed amount thereof.

(3) Where the Magistrate is authorised to inflict imprisonment and has not the option of imposing a fine he or she may impose a fine not exceeding twenty-five thousand dollars:

*[Amended by Act 33/2005]*

Provided that the amount of the fine so inflicted will not subject the offender in default of payment to any greater term of imprisonment than that to which he or she would have been otherwise liable.

*[Amended by Acts 7/1976, 9/1986 and 33/2005]*

(4) Where, in case either of fine or imprisonment, there is prescribed a requirement for the offender to enter into his or her recognisances and to find sureties for keeping the peace and observing some other condition or to do any of such things, the Magistrate may dispense with any such requirement or any part thereof:

Provided that this section shall not apply to any proceedings taken under any Act relating to the Crown's regular or auxiliary forces:

Provided also that this section shall not authorise a Magistrate to reduce the amount of a fine where the Act prescribing such amount carries into effect a treaty, convention, or agreement with a foreign state and such treaty, convention, or agreement stipulates for a fine of a minimum amount:

Provided further that this section shall not authorise a Magistrate to reduce the amount of a fine or the period of imprisonment made mandatory by the Drugs (Prevention

and Abatement of the Misuse and Abuse of Drugs) Act, Cap. 9.08 or the Firearms Act, Cap. 19.05.

*[Amended by Act 5/1996]*

**98. Imprisonment without option of a fine.**

Where a Magistrate convicts a person and orders that person to be imprisoned without the option of a fine the Magistrate shall by warrant commit that person to prison there to be imprisoned for the period mentioned in the warrant.

**99. Consecutive sentences of imprisonment.**

(1) Where a sentence of imprisonment for a summary offence is passed on any person the Magistrate may order that the sentence shall commence at the expiration of any other term of imprisonment to which that person has been previously sentenced, so, however, that where two or more sentences of a Magistrate are ordered to run consecutively the aggregate term of imprisonment shall not exceed six months, unless such sentences include at least

- (a) two sentences for indictable offences dealt with summarily by consent; or
- (b) a sentence for an offence for which the Magistrate was empowered to order a term of imprisonment of more than six months;

in which case the aggregate term of imprisonment shall not exceed twelve months.

(2) In subsection (1), "sentence of imprisonment" includes cases where imprisonment is imposed on any person either with or without the option of a fine, or in respect of non-payment of any sum of money, or for failing to do or abstaining from doing any act or thing required to be done or left undone.

(3) Where a person has been sentenced to imprisonment in default of payment of a fine, the Magistrate may, notwithstanding the provisions of subsection (1), order that the sentence shall begin at the expiration of any term of imprisonment imposed for that offence on that person in addition to the fine.

**100. Where convict is already undergoing imprisonment.**

Where a Magistrate adjudges the defendant to be imprisoned and the defendant is then undergoing imprisonment upon conviction for any other offence the warrant of commitment for the subsequent offence shall be forthwith delivered to the officer to whom it is directed.

**101. Punishment of children.**

No child in respect of whom a finding of guilt is made under the provisions of this Act or the Juvenile Act, Cap. 4.15 shall be liable to be imprisoned or to pay a fine exceeding fifty dollars.

*[Amended by Act 10/1998]*

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**102. Fine etc., to be paid by parent or guardian.**

(1) Where a child is charged with any offence for the commission of which a fine, damages or costs may be imposed and the Magistrate or Juvenile Court is of opinion that the case would be best met by the imposition of a fine, damages or costs, whether with or without any other punishment, the Magistrate or Juvenile Court shall order that the fine, damages or costs awarded be paid by the parent or guardian of the child instead of by the child, unless the Magistrate or Juvenile Court is satisfied that the parent or guardian cannot be found or that he or she has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Any sums imposed and ordered to be paid by a parent or guardian under this section may be recovered from him or her by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child was charged.

**103. Punishment of young persons and adults.**

(1) A young person, in respect of whom a finding of guilt is made under this Act, shall be liable to be imprisoned without hard labour for a period not exceeding three months or to pay a fine not exceeding three hundred dollars.

(2) An adult convicted under this Act shall be liable to be imprisoned with or without hard labour for a period not exceeding six months or to pay a fine not exceeding five hundred dollars.

*[Amended by Acts 7/1976, 9/1986 and 10/1998]*

**104. Sentence to Training School.**

Where a child or young person is convicted under the provisions of this or any other Act the Magistrate or a Juvenile Court may

- (a) send such child or young person to a training school; or
- (b) require such child or young person to do community service under the supervision of a probation officer for a specified period, not exceeding three years.

*[ Substituted by Act 8/1994 ]*

**105. Magistrate may discharge child or young person or order whipping.**

(1) Where a child or young person in respect of whom a finding of guilt is made as provided in the preceding sections mentioned the Magistrate if he or she thinks it inexpedient to inflict any punishment may discharge the accused.

(2) In any case where any child or young person, being a male, in respect of whom a finding of guilt is made by a Magistrate's Court or a Juvenile Court either Court may, in addition to or in lieu of any other punishment which it is empowered to inflict, order him to be whipped.

*[Amended by Act 10/1998]*

**106. Warrant of distress.**

Where a conviction adjudges a fine to be paid and the amount so adjudged is not paid forthwith the Magistrate may issue a warrant of distress for the levying of the same and the warrant shall be in writing under the hand and seal of the Magistrate.

**107. Execution to cease on payment of amount leviable.**

In all cases where a warrant of distress is issued against any person and the person pays or tenders to the officer having the execution of the warrant the sum or sums in the warrant mentioned together with the amount of the expenses of the distress up to the time of payment or tender the officer shall cease to execute the warrant.

**108. When distress warrant issued Magistrate may suffer defendant to go at large or detain him or her in prison.**

In all cases where a Magistrate issues a warrant of distress he or she may suffer the defendant to go at large or verbally or by a written warrant in that behalf may order him or her to be kept in safe custody until return has been made to the warrant of distress unless the defendant gives sufficient security by recognisance or otherwise to the satisfaction of the Magistrate for his or her appearance before him or her at the time and place appointed for the return of the warrant of distress.

**109. Where return is *nulla bona* Magistrate may commit the defendant.**

If at the time and place appointed for the return of any warrant of distress the officer who has execution of the warrant returns that he or she could find no goods or chattels whereon to levy, the Magistrate may issue a warrant of commitment directed to the same or any other peace officer reciting shortly the conviction, the issuing of the distress warrant and the return thereto, and requiring the officer to convey the defendant to prison and there to deliver the defendant to the keeper thereof requiring the keeper to receive the prisoner into such prison and there to imprison him or her or to imprison him or her and keep him or her to hard labour (as the case may be) in the manner and for the time prescribed by section 115, unless and until the sum or sums adjudged to be paid and all costs and charges of the distress and also all costs and charges of the commitment if the Magistrate thinks fit so to order (the amount thereof being ascertained and stated in such commitment) be paid.

**110. Defendant who pays after commitment to be discharged on payment.**

In all cases in which any person is imprisoned for non-payment of any fine he or she may pay or cause to be paid to the keeper of the prison in which he or she is confined the sum or sums in the warrant of commitment mentioned together with the amount of the costs, charges, and expenses therein mentioned and the keeper shall receive the same and shall thereupon discharge the prisoner if he or she be in his or her custody for no other matter.

**111. Powers of Magistrate when imposing a fine.**

A Magistrate by whose conviction any sum is adjudged to be paid may do all or any of the following things, namely,

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- (a) order imprisonment in the first instance, unless such sum be paid forthwith;
- (b) allow time for the payment of the said sum;
- (c) direct payment to be made of the said sum by instalments;
- (d) direct that the person liable to pay the said sum shall be at liberty to give to the satisfaction of that Magistrate, or such person as may be specified by him or her, security with or without a surety or sureties for the payment of the said sum or of any instalment thereof and such security may be given and enforced in manner provided by this Act;
- (e) issue a warrant of distress for the levying of the said sums;
- (f) order imprisonment in default of sufficient distress or of the payment of any instalment.

**112. On default of payment of any instalment process to issue for the whole.**

Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment forthwith of the full amount of the fine or of such amount as remains unpaid.

**113. Mode of payment by instalments.**

A Magistrate directing the payment of a sum or of an instalment of a sum may direct such payment to be made at such time or times, and in such place or places and to such person or persons as may be specified by the Magistrate; and every person to whom any such sum or instalment is paid when not the clerk of the Magistrate, shall as soon as may be, account for such sum or instalment to the Magistrate or to his or her clerk, if the Magistrate has a clerk, and pay over the same into the Public Treasury or, if the Magistrate shall so direct, to the Magistrate or to his or her clerk.

**114. Postponement of issue of warrant of distress or commitment.**

A Magistrate to whom application is made either to issue a warrant of distress or for any endorsement thereon for any sum adjudged to be paid by a conviction or order or to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by a conviction, or for default of sufficient distress to satisfy any such sum, may, if he or she deems it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to him or her shall seem just.

**115. Obligation to allow time for payment of fines, etc.**

(1) A warrant committing a person to prison in respect of the non-payment of a sum adjudged to be paid by a conviction of a Magistrate shall not be issued forthwith unless the Magistrate is satisfied that such person is possessed of sufficient means to enable him or her to pay the sum forthwith, or unless, upon being asked by the Magistrate whether he or she desires that time should be allowed for payment, he or she does not express any such desire, or fails to satisfy the Magistrate that he or she has a fixed abode within the Magistrate's district, or unless the Magistrate for any other special reason expressly directs that no time shall be allowed.

(2) Where the person desires to be allowed time for payment, the Magistrate in deciding what time shall be allowed shall consider any representation made by the person, but the time allowed shall not be less than seven clear days:

Provided that if before the expiration of the time allowed the person convicted informs the Magistrate that he or she prefers immediate committal to awaiting the expiration of the time allowed, the Magistrate may if he or she thinks fit forthwith issue a warrant committing him or her to prison.

(3) In all cases where time is not allowed for payment, the reasons of the Magistrate for the immediate committal shall be stated in the warrant of commitment.

(4) Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order of a Magistrate, the Magistrate may allow further time or he or she may direct payment by instalments of the sum so adjudged to be paid.

(5) The expression "sum adjudged to be paid by a conviction" includes any costs adjudged to be paid by the conviction of which the amount is ascertained by such conviction.

#### 116. **Scale of imprisonment in default of payment of fine or of sufficient distress.**

The period of imprisonment imposed by a Magistrate under this or any other Act in respect of the non-payment of any sum of money adjudged to be paid by a conviction or in respect of the default of a sufficient distress to satisfy any such sum or in respect of the default of payment of any instalment of such sum shall notwithstanding any enactment to the contrary in any past Act be such period as in his or her opinion will satisfy the justice of the case, but shall not in any case exceed the maximum fixed by the following scale:

Where the amount of the sum or sums of money adjudged to be paid—	The said period shall not exceed—
Does not exceed \$10.00 .....	14 days.
Exceeds \$10.00 but does not exceed \$50.00 .....	30 days.
Exceeds \$50.00 but does not exceed \$100.00 .....	2 months
Exceeds \$100.00 but does not exceed \$250.00 .....	3 months
Exceeds \$250.00 but does not exceed \$500.00.....	6 months
Exceeds \$500.00 .....	12 months

and may be either with or without hard labour in the discretion of the Magistrate.

*[Amended by Act 7/1976]*

#### 117. **On part payment term of imprisonment to be reduced.**

Where it becomes necessary to issue a warrant for committing a person to prison for non-payment of a sum adjudged to be paid by a conviction, or for default of sufficient distress to satisfy the sum, and it appears to the Magistrate that, either by payment of part of the sum, whether in the shape of instalments or otherwise, or by the net proceeds of the distress, the amount of the sum so adjudged has been reduced, the Magistrate shall, by warrant of commitment, revoke the term of imprisonment to which the defendant is liable under the conviction, and order the defendant to be imprisoned for such less period as in the Magistrate's opinion will satisfy the justice of the case.



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**118. Power of Magistrate to order attachment of debts due to person sentenced to pay a fine.**

Where any person is summarily convicted and is sentenced to pay a fine and it is shown to the Magistrate that there is any sum of money in the hands of a third person which is due and payable by the third person to the convicted person, it shall be lawful for the Magistrate to order the third person to pay such sum of money or such part thereof as will be sufficient to satisfy the fine to such person or persons as would be by law entitled to receive payment of the fine as aforesaid in such manner and form as a garnishee may be compelled to pay over money in his or her hands for the satisfaction of a judgment debt under any Act for the time being in force in the State in that behalf and the Magistrate shall have the same powers in that behalf as are given to the Court under such Act as aforesaid.

**119. Where more than one person is ordered to pay a sum equal to the damage done.**

When several persons join in the commission of the same offence and upon conviction thereof each is adjudged to forfeit a sum equivalent to the value of the property or to the amount of the injury done no further sum shall be paid to the party aggrieved than the amount forfeited by one of such offenders only and the corresponding sum forfeited by the other offender shall be applied in the same manner as other penalties imposed by a Magistrate are directed to be applied.

**120. All convictions to be transmitted to the High Court.**

Every Magistrate before whom any person is summarily convicted shall transmit the conviction to the High Court before the time when an appeal from the conviction could be heard, there to be kept by the proper officer among the records of the Court and if such conviction has been appealed against and a deposit of money made shall return the deposit into the said Court and upon any indictment, information or complaint against any person for a subsequent offence a copy of such conviction certified by the proper officer of the Court or proved to be a true copy shall be sufficient evidence to prove a conviction for the former offence and the conviction shall be presumed to have been unappealed against until the contrary be shown.

**PART VI – SUMMARY JURISDICTION (QUASI-CRIMINAL) PROTECTION  
AND MAINTENANCE OF MARRIED WOMEN, AND CHILDREN BORN OUT  
OF WEDLOCK**

**121. Order relating to separation and maintenance.**

(1) Any married person (in this section called “the applicant”) whose husband or wife, as the case may be, (in this section called “the defendant”)

- (a) has been guilty of adultery; or
- (b) has deserted the applicant; or
- (c) has been convicted summarily of an aggravated assault on the applicant within the meaning of section 41 of the Offences against the Person Act, Cap. 4.21; or

- (d) has been convicted, on indictment, of an assault upon the applicant; or
- (e) has been guilty of persistent cruelty to the applicant or to the children of the applicant; or
- (f) being under a duty to provide reasonable maintenance for the applicant and the children of the applicant, has wilfully neglected or refused to do so; or
- (g) is an habitual drunkard,

may apply to a Magistrate for an order under this Part.

- (2) Any married woman whose husband
  - (a) has compelled her to submit to prostitution; or
  - (b) while suffering from venereal disease and knowing that he was so suffering, has insisted on having sexual intercourse with her,

may also apply to a Magistrate for an order under this Part.

- (3) For the purposes of this section,
  - (a) where the husband has, in the opinion of the Magistrate, been guilty of such conduct as was likely to result and has resulted in his wife submitting herself to prostitution he shall be deemed to have compelled her so to submit herself;
  - (b) an habitual drunkard shall be deemed to be a person who, by reason of habitual intemperate drinking of intoxicating liquors or habitual taking or using, except on medical advice, of dangerous drugs within the meaning of the Dangerous Drugs Act, is at times dangerous to himself or herself or to others or incapable of managing himself or herself or his or her affairs; and
  - (c) where the applicant is entitled to apply for an order or orders under this section on the ground of the conviction of the defendant upon indictment, the applicant may apply to the Court before which the defendant has been convicted, and that Court shall for the purposes of this section become a Magistrate's Court and have the power without a jury to hear an application and make the order or orders applied for.

(4) The Magistrate to whom any application under this section is made may make an order or orders containing all or any of the provisions following, namely,

- (a) that the applicant be no longer bound to cohabit with the defendant (which provision while in force shall have the effect of a decree of judicial separation on the ground of cruelty);
- (b) that the legal custody of any children of the marriage while under the age of eighteen years be committed to the applicant;

*[Amended by Act 2/1992]*

- (c) that the defendant shall pay to the applicant personally, or for the use of the applicant to any officer of the Court or third person on behalf of the applicant, such weekly sum as the Magistrate having regard to

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the means both of the applicant and the defendant, considers reasonable:

Provided that where the defendant is the wife of the applicant the Magistrate shall not make an order containing the provisions of this paragraph unless he or she is satisfied that the applicant is not possessed of sufficient means to provide reasonable maintenance for himself or that the applicant is by reason of old age, illness or physical or mental disability unable to provide for his own maintenance.

- (d) that the defendant shall pay to the applicant, or to an officer of the Court or third person on behalf of the applicant, a weekly sum as the Magistrate, having regard to the means of the defendant and the needs of the child, considers reasonable for the maintenance of each of the children of the marriage until each such child attains the age of eighteen years;

*[Amended by Act 2/1992]*

- (e) for payment by the applicant or defendant, as the case may be, or both of them, of the costs of the application and any reasonable costs of either of the parties as the Magistrate may think fit.

(5) No order shall be made under paragraph (c) of subsection (4) where it is proved that the applicant has committed an act of adultery:

Provided that the defendant has not condoned, or connived at, or by his or her wilful neglect condoned to such act of adultery.

(6) A Magistrate, acting within the district in which any order under this section has been made, may on the application of the wife or husband, and upon cause being shown upon fresh evidence to the satisfaction of the Magistrate, at any time, alter, vary or discharge any such order and may upon such application from time to time increase or diminish the amount of any weekly payment ordered to be made.

*[Amended by Act 2/1992]*

(7) If any person on whose application an order has been made under this section, shall voluntarily resume cohabitation with her husband or his wife, as the case may be, or shall commit an act of adultery, such order shall on proof thereof be discharged:

Provided that the Magistrate may, if he or she thinks fit,

- (a) refuse to discharge such order in the case of a wife who has committed adultery if in his or her opinion such act of adultery as aforesaid was condoned to by the failure of the husband to make such payments as in his or her opinion he or she was able to make under the order;
- (b) in the event of the order being discharged, make a new order that the defendant shall pay to the applicant, or to an officer of the Court or third person on behalf of the applicant, a weekly sum as the Magistrate, having regard to the means of the defendant and the needs of the child, considers reasonable for the maintenance of each of the

children of the marriage until each such child attains the age of eighteen years.

*[Amended by Act 2/1992]*

(8) No order made under this section shall be enforceable and no liability shall accrue under any such order while the applicant with respect to whom the order was made resides with the defendant and any such order shall cease to have effect if for a period of three months after it is made such applicant continues to reside with the defendant.

(9) In this section, the term "children of the marriage" shall include every child whom the applicant or defendant is liable under any law to maintain and who has been living with them as part of the husband's family.

*[Amended by Act 19/1983]*

(10) All applications made under this Part shall be heard in camera.

*[Inserted by Act 2/1992]*

(11) Where any parent does not have actual custody of a child, if the Magistrate in all the circumstances of the case considers it in the best interest of the child, he or she may order access by any parent to such child, on such terms as he or she considers reasonable.

*[Inserted by Act 2/1992]*

(12) Where any person against whom an order has been made under subsection (11) fails to comply with the provisions of the order such person shall be liable, on summary conviction, to pay a fine of two hundred dollars or to imprisonment for six months.

*[Inserted by Act 3/1994]*

*[Originally section 119. Note: At the 2002 cut-off date sections 120 to 131 (inclusive) were renumbered accordingly and this Part renumbered as Part VI. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

## 122. Procedure and enforcement of orders.

(1) All applications under section 121 shall be made in like manner as a complaint.

(2) If in the opinion of the Magistrate the matters in question between the parties or any of them may be more conveniently dealt with by the High Court, he or she may refuse to make an order under section 121 and in that case no appeal shall lie from his or her decision:

Provided that the High Court or a Judge thereof may, by order in any proceeding in that Court relating to or comprising the same subject matter as the application so refused, or any part thereof, direct the Magistrate to re-hear and determine that matter.

(3) The payment of any sum of money directed to be paid by any order made under section 121 may be enforced in the like manner as though such order were a conviction and the provisions of this Act shall apply in all respects as fully as though such order as aforesaid were a conviction.

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**123. Enforcement of orders as to custody of children.**

Where an order under section 121 contains a provision committing to the applicant the legal custody of any children of the marriage, a copy of the order may be served on any person in whose actual custody the children may for the time being be, and thereupon if within seven days of such service the person makes default in handing over to the applicant the custody of the children, the Court may, in its discretion order the person so making default to pay to the applicant a sum (to be enforced as a civil debt recoverable summarily under this Act) not exceeding five dollars for every day during which he is in default, or to be imprisoned until he or she has remedied his or her default:

Provided that a person shall not for such default, whether it be made in respect of one or more orders, be liable under this section to be imprisoned for a period or periods amounting in the aggregate to more than two months, or to payment of any sums exceeding in the aggregate one hundred dollars.

**124. Interim orders.**

Where, on the hearing of any application for a maintenance order, the application is adjourned for any period exceeding fourteen days, the Magistrate may order that the defendant do pay to the person in respect of whom the order is sought to be made, or to an officer of the Court or third person on behalf of such person, a weekly sum, as the Magistrate, in all the circumstances considers reasonable, which interim order shall be enforced in like manner as if it were a final order of the Court:

Provided that the order directing such payment shall not remain in operation for more than three months after the order was made.

*[Amended by Act 2/1992]*

**125. Putative father to be summoned on application of mother of child.**

Any single woman who may be with child, or who may, be delivered of a child, may, either before the birth or at any time within twelve months from the birth of such a child, or at any time thereafter, upon proof that the man alleged to be the father of the child has within the twelve months next after the birth of the child paid money for its maintenance or otherwise assisted to provide for its support, or at any time within the twelve months next after the return to the State of the man alleged to be the father of the child, upon proof that he ceased to reside in the State within twelve months next after the birth of the child, make application to a Magistrate for a summons to be served on the man alleged by her to be the father of the child; and if such application be made before the birth of the child, the woman shall make a deposition upon oath stating who is the father of the child, and the Magistrate shall upon the application being made issue the summons to the person alleged to be the father of the child to appear before a Magistrate and to show cause why he should not be compelled to maintain the child.

*[Amended by Act 7/1976]*

**126. Order on putative father for maintenance, education, etc of child.**

(1) On the appearance of the person so summoned, the Magistrate shall, where the defendant admits paternity, adjudge him to be the father of the child.

(2) Where the defendant

- (a) denies paternity, or
- (b) does not appear and it is proved that the summons was duly served;

the Magistrate shall hear the evidence of the woman and such other evidence as she may produce, and any evidence tendered by or on behalf of the defendant and if satisfied on the evidence that the case of the woman has been proved the Magistrate shall adjudge the defendant to be the father of the child; but where the Magistrate is not satisfied he or she shall dismiss the application.

(3) Where the Magistrate has adjudged the defendant to be the father of the child the Magistrate may also, if he or she thinks fit in all the circumstances of the case, proceed to make against the defendant an order for the payment by him to the mother or any person having custody of the child, of

- (a) a sum of money weekly, for the maintenance and education of the child as the Magistrate, having regard to the means of the defendant and the needs of the child, considers reasonable;
- (b) the expenses incidental to the birth of the child;
- (c) the child's funeral expenses if the child has died before the making of the order; and
- (d) such costs as may have been incurred in the obtaining of the order.

(4) The Magistrate shall have power to discharge, suspend or vary the order on the application of either the defendant or the mother or any person having custody of the child upon proof that the means of the defendant have been altered in amount since the original order or any subsequent order varying it has been made, or that the needs of the child have changed.

*[Inserted by Act 2/1992]*

#### 127. **Enforcement of order on putative father.**

(1) If the application be made before the birth of the child or within two calendar months after the birth of the child, the Magistrate may order the payment of the weekly sum to be made from the birth of the child; and if at any time after the making of such order as aforesaid it be made to appear to a Magistrate upon oath that any sum payable in pursuance of such order is one month in arrear the Magistrate may proceed to enforce such order in like manner as if such order were a conviction, and the provisions of this Act shall apply in all respects as fully as though such order as aforesaid were a conviction:

Provided that where any weekly sum payable in pursuance of such order is in arrear as aforesaid the Magistrate shall not proceed to enforce such order as provided in this section unless he or she is satisfied that the defendant is possessed of sufficient means to pay such arrears in whole or in part.

(2) Where in any proceedings for the enforcement of such order the defendant is committed to prison, the arrears shall not be extinguished by the fact of imprisonment and shall continue to accrue during the time that the defendant is in prison.

*[Amended by Act 23/2005]*

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**128. Time for which order on putative father to remain in force.**

No order for the maintenance and education of a child born out of wedlock made in pursuance of this Act, shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained eighteen years, or after the death of such child.

*[Amended by Acts 19/1983 and 2/1992]*

**129. Forms and procedure.**

The forms to be used and the proceedings to be had under Part V shall, as nearly as may be, be those used and had in the case of a person charged with having committed an offence punishable summarily by a Magistrate by fine or imprisonment.

**130. Service of summonses and notices and orders.**

Every summons, notice or order to be served on any person under Part V may either be served personally or may be served by leaving the same at the last known place of abode of the person to be served; and such service shall be effected not less than six clear days before the day on which such person is required to appear before the Magistrate.

**131. Payment of money under an order for the maintenance and education of a child.**

(1) Except as is otherwise provided by any law and subject to the provisions of this section, all money payable under any order made under section 126 shall be due and payable to the mother of the child in respect of such time and so long as she lives and is of sound mind and is not in prison.

(2) After the death of the mother of such child, or while such mother is of unsound mind or confined in any prison any Magistrate may make an order from time to time appointing some person who with his or her own consent shall have the custody of such child; and the Magistrate may revoke the appointment of such person and may appoint another person in his or her stead.

(3) Every person so appointed to have the custody of a child may make application for the benefit of such child in the same manner as the mother of the child could have done.

(4) It shall be lawful for the Magistrate to order any money payable under any such order to be paid to the person appointed by the Magistrate under the provisions of section 132, and to be applied in such manner as shall be directed by the Magistrate.

*[Amended by Acts 6/1976 and 7/1976]*

**132. Summons to putative father to show cause why order should not issue where a charge of neglect is being heard.**

On the hearing of any charge of wilfully neglecting to provide adequate food, clothing, medical aid or lodging for any child under fourteen years, the Magistrate may direct that any person may be summoned to appear before him or her to show cause why an order should not be made upon him as father or putative father for the support of such child, and may after hearing any person so summoned, or if such person does not appear,

on proof of the service of the summons make such order as he or she may think fit in the matter, and may enforce the same in like manner as if the order were a conviction and the provisions of this Act shall apply in all respects as fully as though such order were a conviction.

**133. Father of child compellable to support it.**

It shall be lawful for any person whom the Magistrate may appoint in that behalf to take all steps in and about the compelling of the putative father of any child to contribute to its support which the mother of such child would be entitled to take under this Act.

*[Amended by Acts 6/1976 and 7/1976]*

**PART VII – JURISDICTION IN RELATION TO SALVAGE AND WRECK**

**134. Salvage in respect of services rendered in the State.**

Whenever any ship or boat is stranded or otherwise in distress on the shore of any sea or tidal water situate within the limits of the State and services are rendered by any person,

- (a) in assisting such ship or boat;
- (b) in saving the lives of the persons belonging to such ship or boat;
- (c) in saving the cargo or apparel of such ship or boat or any portion thereof;

and whenever any wreck is saved by any person other than a Receiver within the State, there shall be payable by the owners of such ship, or boat, cargo, apparel, or wreck, to the person by whom such services or any of them are rendered, or by whom such wreck is saved, a reasonable amount of salvage together with all expenses properly incurred by him or her in the performance of such services or the saving of such wreck, the amount of such salvage and expenses (which expenses are hereinafter included under the term salvage) to be determined in case of dispute in manner hereinafter mentioned.

*[Originally section 132. Note: At the 2002 cut-off date sections 133 to 141 (inclusive) were renumbered accordingly and this Part renumbered as Part VII. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

**135. Disputes as to salvage how to be settled.**

Whenever any dispute arises in the State between the owners of any such ship, boat, cargo, apparel, or wreck as aforesaid and the salvors as to the amount of salvage, and the parties to the dispute cannot agree as to the settlement thereof by arbitration or otherwise then if the sum claimed does not exceed five thousand dollars such dispute may be referred to the arbitration of any Magistrate resident as follows, that is to say,

- (a) in case of wreck, resident at or near the place where such wreck is found;
- (b) in case of services rendered to any ship or boat, or to the persons, cargo, or apparel belonging thereto, resident at or near the place where such ship or boat is lying, or at or near the first port or place in



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the State into which such ship or boat is brought after the occurrence of the accident by reason whereof the claim to salvage arises;

and every dispute with respect to salvage may be heard and adjudicated upon on the application either of the salvor or of the owner of the property salvaged, or of their respective agents.

*[Amended by Act 8/1994]*

**136. Manner in which Magistrate may decide disputes.**

Whenever in pursuance of this Act any dispute as to the salvage is referred to the arbitration of a Magistrate he or she may determine the same with power to call to his or her assistance any person conversant with maritime affairs as assessor, and the Magistrate shall make an award as to the amount of salvage payable within one month after such dispute has been referred to him or her, with power nevertheless for the Magistrate by writing under his or her hand to extend the time within which he or she is hereby directed to make his or her award.

*[Amended by Act 7/1976]*

**137. Costs of arbitration.**

Subject to any agreement of the parties to any arbitration, the costs of any arbitration under this Act shall be in the discretion of the Magistrate.

**138. Payment of costs of arbitration.**

There shall be paid to every assessor who may be so appointed as aforesaid in respect of his or her services such sum as the Minister of Finance may, from time to time, direct and all the costs of such arbitration including any such payments as aforesaid, shall be paid by the parties to the dispute in such manner and in such shares and proportions as the Magistrate may direct by his or her award.

*[Amended by Act 6/1976]*

**139. Magistrate may call for documents and administer oaths.**

The Magistrate may call for the production of any documents in the possession or power of either party which they or he or she may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose.

**140. Appeal.**

If any person is aggrieved by the award made by the Magistrate, under this Part, he or she may appeal to the Court of Appeal in the manner and form hereinafter provided.

**141. Magistrate to transmit copy of proceedings and certificate of value to Registrar of Court of Appeal.**

Whenever any appeal is made in manner hereinbefore provided, the Magistrate shall transmit to the Registrar of the Court of Appeal a copy on unstamped paper, certified under his or her hand to be a true copy of the proceedings had before the Magistrate, and of award so made by him or her, accompanied with his or her certificate in writing of the

gross value of the article respecting which salvage is claimed, and such copy and certificate shall be admitted in the Court as evidence in the cause.

**142. Disputed title to wreck, how to be decided.**

If any dispute arises between the Receiver of Wreck and any Admiral, Vice-Admiral, or other person as to the validity of his or her title to wreck, or if divers persons claim to be entitled to wreck found at the same place, the matter in dispute may be decided by a Magistrate in the same manner in which disputes as to salvage coming within the jurisdiction of a Magistrate are hereinbefore directed to be determined.

**143. Appeal from decision of Magistrate.**

If any party to the dispute referred to in section 142 is unwilling to refer the same to a Magistrate, or having so referred the same, is dissatisfied with the Magistrate's decision, he or she may within three months from the expiration of a year from the date at which the wreck came into the possession of the Receiver or from the date of the decision as aforesaid, as the case may be, take such proceedings as he or she may be advised in any Court of law, equity, or Admiralty having jurisdiction in the matter for establishing his or her title.

**PART VIII – CIVIL JURISDICTION**

**144. Plaintiff and defendant may give evidence.**

In all civil proceedings the party making the claim is called the plaintiff and the party against whom the claim is made is called the defendant, and both the plaintiff and defendant may give evidence on oath.

*[Originally section 142. Note: At the 2002 cut-off date sections 143 to 161(inclusive) were renumbered accordingly and this Part renumbered as Part VIII. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

**145. Venue.**

All civil proceedings shall be commenced, proceeded with and determined in the magisterial district in which the parties or either of them reside and by leave of a Magistrate in any other district.

**146. Magistrate may issue a summons to be served on defendant. Procedure.**

For the purpose of instituting any civil proceedings the plaintiff may apply to the Magistrate for a summons and the particulars of claim and of the order claimed shall be endorsed on the back of the summons, and the summons so endorsed shall be filed by the Magistrate and a certified copy of the summons issued by the Magistrate which shall be served on the defendant in the manner prescribed by rules of court for the time being in force relating to the recovery of claims, and all the provisions of the rules of Court except where they are repugnant to the provisions of this Act shall apply *mutatis mutandis* to all actions or proceedings brought and taken under Part VIII so far as the same can be made applicable thereto and are not inconsistent with any of the provisions of this Act.

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**147. Limitation six years.**

No claim in respect of any civil proceedings shall be heard where the grounds of the claim arose more than six years before the date of the writ issued in the action unless there has been an acknowledgment, undertaking or promise to pay or to be bound in respect thereof by the party to be charged within such period of six years.

**148. Fees to be taken.**

(1) Subject to the provisions of subsection (3) of this section, the Chief Justice may, by rules, prescribe the Court fees and bailiff fees to be paid in all civil proceedings under this Act, and until such rules have been made the fees specified in the Second Schedule shall be payable.

*[Substituted by Act 6/1976]*

(2) Subject to subsection (1) the Attorney-General may, from time to time, by Statutory Order, amend the fees specified in the Second Schedule to this Act.

*[Inserted by Act 20/1998]*

(3) In cases where

- (a) any person seeks to recover compensation for services which by any law in force in the State he or she is compelled to render without prepayment;
- (b) any public officer seeks as such to recover any debt or compensation due to the Government of the State, or to any public institution of the State;
- (c) the Magistrate is satisfied of the inability of any plaintiff to pay the prescribed fees and that the plaintiff has, prima facie, a good ground of claim;

no fees shall be demanded from the plaintiff.

(4) The Magistrate shall, on giving judgment for the plaintiff,

- (a) in cases of the nature referred to in paragraph (a) of the preceding subsection,
- (b) in cases of the nature referred to in paragraph (c) of the preceding subsection;

order the defendant to pay to the plaintiff such fees as would in other cases be chargeable.

(5) The fees referred to in subsection (4), if and when recovered by the plaintiff, shall be paid by the plaintiff into the Treasury for the public uses of the State, and if any plaintiff after recovery of such fees shall fail to pay the same into the Treasury as provided in this subsection within fourteen days of the receipt of the fees he or she shall be liable to be imprisoned for any period not exceeding six months.

**149. Claims may not be split.**

No cause of action arising out of a simple contract which shall exist at any one time amounting in the whole to a sum exceeding ten thousand dollars shall be split so as to be made the ground of two or more different summonses, in order to bring such cases within

the jurisdiction of the Magistrate and if the Magistrate shall find that the plaintiff in any case has split his or her cause of action as aforesaid he or she shall dismiss the summons or summonses but without prejudice to the plaintiff's right to sue on the cause of action in such other manner as he or she shall think fit:

Provided that if the plaintiff is content to recover a sum not exceeding ten thousand dollars the Magistrate shall entertain the summons and in case any judgment shall be given in favour of the plaintiff the same shall be a full discharge and satisfaction of the whole cause of action and it shall be so expressed in the body of the judgment.

*[Amended by Acts 15/1975 and 8/1994]*

**150. Set-off or counter claim.**

In an action arising out of a simple contract or where an order is claimed for the payment of money as a civil debt, the defendant may plead and prove a set-off or may counter-claim against the plaintiff provided such counter-claim is based upon the same contract on which the plaintiff is suing and that the amount claimed whether by way of set-off or counter-claim or the balance thereof does not exceed ten thousand dollars.

*[ Amended by Acts 15/1975 and 8/1994]*

**151. Review.**

The Magistrate may, on application by either party, in any civil matter, upon such grounds as he or she in his or her discretion thinks sufficient, review any judgment or decision given by him or her within one month from the date thereof (unless either party has appealed and the parties do not agree to the withdrawal of the appeal); and upon the review he or she may re-open and re-hear the case wholly or in part, and take fresh evidence, and reverse, vary or affirm his previous judgment or decision.

**152. Costs.**

The costs of all civil proceedings which shall be in the discretion of the Magistrate shall be limited to fees of Court and bailiff's fees:

Provided that the Magistrate may in addition to the fees of Court and bailiff's fees allow any reasonable sum or sums not exceeding ten thousand dollars in the aggregate by way of compensation for the attendance, loss of time and legal or other expenses of parties and witnesses and all sums so allowed in any civil proceedings shall be recovered as costs therein.

*[Amended by Acts 15/1975; 8/1994 and 33/2005]*

**153. Execution.**

Every judgment or order may be enforced by sale of the goods and chattels of the defendant or by attachment of monies due to him or her by any third party.

**154. Judgments and orders not to be enforced by imprisonment.**

No judgment or order or order for the payment of any costs awarded shall be enforced by imprisonment except as prescribed by this Act.

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**155. Judgment summons.**

(1) Where any defendant shall make default in the payment of any judgment debt or of any sum ordered to be paid or any instalment or any costs and he or she either has or has had since the date of the order the means to pay the same, and has refused or neglected or refuses or neglects to pay the same, the Magistrate may commit him or her to prison without hard labour for any period not exceeding six weeks or until payment of the sum due, and may issue all necessary warrants in that behalf:

Provided that the order be made in open Court and:

Provided also that no imprisonment under this section shall operate as an extinguishment of the debts or grounds of claim or deprive any person of the right to obtain a writ of execution for the satisfaction of the debt.

(2) Proof of the means of the person making default may be given in such manner as the Magistrate may think just, and such person as aforesaid and any witness may be summoned and examined on oath as other witnesses may be summoned and examined under this Act.

(3) Where a warrant of commitment is issued under subsection (1) it shall be executed by the bailiff.

(4) In any case where, owing to the time and place of arrest of the judgment debtor, it is not practicable or convenient to convey him or her to the prison to which he or she is by such warrant committed, the bailiff effecting the arrest shall convey him or her to the nearest police station in the locality where such arrest was made; and it shall be lawful for the police officer in charge of such station to detain such judgment debtor in some secure place of confinement at such station until such hour, not later than twelve noon of the day following that on which he or she is arrested, and as soon as may be convenient thereafter the judgment debtor shall be conveyed to prison as directed by the warrant of commitment.

(5) When any person who has been detained at a police station as provided in subsection (4) is thereafter conveyed to the prison to be imprisoned by virtue of such warrant of commitment the bailiff shall endorse on the warrant the day on, and the hour at, which such person was arrested by virtue thereof; and the imprisonment shall be computed from such day and inclusive thereof.

(6) Where a Magistrate either before or after the commencement of this Act makes an order for the payment either in one sum or by instalments of any judgment debt and costs, such order may, on the application either of the judgment debtor or judgment creditor and upon cause being shown upon fresh evidence to the satisfaction of the Magistrate, be varied or altered by him or her by ordering the amount due and unpaid (if payable in one sum) to be paid by instalments, or if the said amount is already payable in instalments, he or she may increase or decrease the amount of such instalments.

**156. Where the doing or abstaining from the doing of any act is ordered.**

Where power is given by any Act to a Magistrate of requiring any person to do or abstain from doing any act or thing other than the payment of money or of requiring any act or thing to be done or left undone other than the payment of money and no mode is prescribed for enforcing such requisition the Magistrate may exercise such power by an

order and may annex thereto any conditions as to time or mode of action as to him or her may seem just and may suspend or rescind such order on such undertaking being given or condition being performed as to him or her may seem just and may make such arrangements for carrying such power into effect as may to him or her seem expedient.

**157. Magistrate may order a penalty *per diem* or imprisonment.**

A person who makes default in complying with the order of a Magistrate other than for the payment of money for the space of ten days, may, if it be not otherwise provided in the Act on which such order is based upon application to a Magistrate and on proof of such default, be ordered to pay a sum not exceeding twenty-five dollars for every day during which he or she is in default, or to be imprisoned until he or she has remedied his or her default, and any sum ordered to be paid as last hereinbefore mentioned shall be recoverable summarily as a civil debt.

*[Amended by Acts 7/1976 and 9/1986]*

**158. Maximum imprisonment and penalty.**

No person shall, for non-compliance with the requisition of the Magistrate whether made by one or more orders to do or to abstain from doing any particular act or thing, be liable to be imprisoned for a period or periods amounting in the aggregate to more than two months or to the payment of any sums exceeding in the aggregate five hundred dollars.

*[Amended by Acts 7/1976 and 9/1986]*

**159. Bailiffs.**

It shall be lawful for the Governor-General, from time to time, to appoint such bailiffs of the Magistrates' Courts as may be necessary for the carrying out of the provisions of this Part, and all bailiffs so appointed shall receive such remuneration as may from time to time be voted by the National Assembly and every such bailiff shall give such security for the due performance of the duties of his or her office as the Governor-General may direct.

*[Amended by Act 6/1976]*

**160. Bailiffs to pay all fees to Magistrate or clerk.**

Every bailiff shall forthwith pay over to the Magistrate or the Magistrate's clerk all fees received by him or her to be paid into the Treasury of the State.

**161. Bailiffs to pay all monies collected by them to Magistrate or clerk.**

Every bailiff who is directed by any Magistrate to collect the amount of any judgment debt or order for the payment of money shall, on receiving the amount of such debt or sum or any part thereof or of any costs or other sums of such money collected by him or her, forthwith pay over the same to the Magistrate or the clerk of the Magistrate and the Magistrate or the clerk of the Magistrate shall pay the same to the party who is entitled to receive the same.

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**162. Interpleader summons.**

When any property of any kind shall be seized or taken in execution under any judgment or order in any suit or proceeding under Part VII, which is claimed by any person not a party to the suit, such claim shall be determined by the Magistrate in a summary way upon a summons to be taken out by such claimant against the party prosecuting the judgment or order.

**163. Exception in cases of salvage, children born out of wedlock and desertion.**

Nothing in this or any other enactment shall be held to render Part VIII applicable to any proceedings in respect of salvage, children born out of wedlock or the maintenance of married women, or to any proceedings in relation to the binding over of persons by recognisance to keep the peace or to be of good behaviour.

*[Amended by Act 19/1983]*

**PART IX – APPEALS FROM MAGISTRATE TO COURT OF APPEAL**

**164. Appeal.**

(1) Where a Magistrate refuses to make a conviction the complainant may appeal to the Court of Appeal against the decision.

(2) Where a Magistrate makes a conviction the party against whom the conviction is made may appeal to the Court of Appeal against the decision.

(3) There shall be a right of appeal to the Court of Appeal from any judgment or order of a Magistrate in any civil proceedings where the sum claimed or the value of the property in dispute exceeds fifty dollars, and in a matter relating to salvage or the title to wreck where the sum in dispute exceeds one hundred dollars:

Provided that an appeal shall lie in any other case with leave of the Court of Appeal.

*[Originally section 162. Note: At the 2002 cut-off date sections 163 to 187 (inclusive) were renumbered accordingly and this Part renumbered as Part IX. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

**165. Appeal by motion or special case.**

Every appeal shall be either by way of motion or special case as hereinafter provided.

**166. Appeal operates as a stay.**

Subject to section 171, an appeal, whether by way of motion or special case, shall have the effect of suspending the execution of the decision, judgment or order appealed from until the final determination of the appeal.

*[Amended by Act 25/2009]*

**167. Notice of appeal.**

(1) Where an appeal is by way of motion the appellant shall, within fourteen days after the day on which the Magistrate has given his or her decision, serve a notice on the other party and on the Magistrate of his or her intention to appeal, and the notice shall also contain the reasons for appeal.

(2) The notice required by subsection (1) may set forth all or any of the following reasons, and no other, that is to say,

- (a) that the Court had no jurisdiction in the case:

Provided that it shall not be competent for the Court of Appeal to entertain such reason for appeal, unless objection to the jurisdiction of the Court has been formally taken at some time during the progress of the case and before the pronouncing of the decision;

- (b) that the Court exceeded its jurisdiction in the case;
- (c) that the Magistrate was personally interested in the case;
- (d) that the Magistrate acted corruptly or maliciously in the case;
- (e) that the decision was obtained by fraud;
- (f) that the case has been already heard or tried and decided by, or forms the subject of a hearing or trial pending before, some competent tribunal;
- (g) that legal evidence substantially affecting the merits of the case was rejected by the Court;
- (h) that illegal evidence was admitted by the Court and that there is not sufficient legal evidence to sustain the decision after rejecting such illegal evidence;
- (i) that the decision is unreasonable or cannot be supported having regard to the evidence;
- (j) that the decision was erroneous in point of law;
- (k) that some other specific illegality, not hereinbefore mentioned, and substantially affecting the merits of the case was committed in the course of the proceedings in the case;
- (l) that the judgment or sentence passed was based on a wrong principle or was such that a Magistrate viewing the circumstances reasonably could not properly have so decided; or
- (m) that the sentence imposed was unduly severe.

(3) An applicant shall, subject as hereinafter in this sub-section appears, set forth in the said notice the particular matter on which he or she relies or of which he or she complains, in such manner as to inform the respondent thereof, as, for example, if he or she relies upon the reason for appeal stated in paragraph (f) of subsection (2), the name of the tribunal shall be stated, and, if a decision is alleged, the approximate date of such decision shall be stated; if he or she relies upon the reason for appeal stated in paragraph (j) of subsection (2), the nature of the error shall be stated; and if he or she



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relies upon the reason for appeal stated in paragraph (k) of subsection (2), the illegality complained of shall be clearly specified.

(4) Where the reason for appeal given is that the applicant is not guilty, no particulars need be stated.

**168. Service of notice.**

Every notice of appeal shall be in writing signed by the appellant or his or her counsel or solicitor and may be transmitted as a registered letter through the post in the ordinary way and shall be deemed to have been served at the time when it would be delivered in the ordinary course of the post.

**169. Recognisance or security to be taken.**

The appellant shall, within three days after the day on which he or she served notice of his or her intention to appeal, enter into a recognisance before a Magistrate with or without sureties as the Magistrate may direct conditioned to appear before the Court of Appeal and to try the appeal and to abide the judgment thereon of the Court of Appeal and to pay such costs as may be awarded by the said Court, or if the Magistrate thinks it expedient he or she may instead of entering into recognisances give such other security by payment of money into Court or otherwise as the Magistrate deems sufficient.

**170. Transmission by Magistrate of proceedings in cases under appeal.**

After an appellant has served on the Magistrate a notice of his or her intention to appeal and entered into a recognisance or given security to prosecute such appeal, the Magistrate shall, within ten days of the service of the notice of appeal, transmit to the Registrar of the Court of Appeal a copy of the proceedings and all papers relating to the appeal together with a concise memorandum of his or her reasons for decision.

**171. Appellant to go at large.**

(1) Where the appellant is in custody, the Magistrate before whom he or she appears to enter into a recognisance may, upon application being made by or on behalf of such person and if the Magistrate thinks fit, having regard to the following:

- (a) the character of the person;
- (b) the nature and seriousness of the offence for which such person was convicted;
- (c) the likelihood of such person absconding or committing the same or a like offence if he or she is released from custody;
- (d) such other exceptional circumstances which appear to the court to be relevant, order that such person be released from custody with or without a surety or sureties until such time as the appeal is determined, abandoned or withdrawn.

(2) Notwithstanding the provisions of subsection (1), a person shall only be entitled to bail pending appeal where the sentence which was imposed upon the person does not exceed six months.

*[Amended by Act 25/2009]*

**172. Special Case.**

(1) After the hearing and determination of any complaint, the Magistrate may, in his or her discretion, on the application of either party to the complaint or their solicitor, or of his or her own motion without such application, state a case on any point of law arising in the case for the opinion of the Court of Appeal.

(2) The statement of facts in such case so stated shall, for the purpose of the determination thereof, be conclusive.

(3) Where the party (hereinafter called "the appellant") makes application to a Magistrate to state a case the appellant shall within fourteen days after the day on which the Magistrate has given his or her decision, in the manner and form prescribed by sections 167 and 168, serve a notice of appeal on the other party and on the Magistrate.

(4) The provisions of sections 169 and 171 shall apply in respect of any such appeal.

(5) Nothing herein contained shall be construed to prevent either party in such a case appealing within the time specified in section 166 as to any determination of fact or any question of law not raised in the case stated by the Magistrate; but the appeal shall be in such event independent of the case stated.

(6) The Director of Public Prosecutions may, by notice in writing under his hand, require a Magistrate to state a case on any point of law, and, on receipt of such notice, the Magistrate shall state such case accordingly.

*[Amended by Act 12/1967]*

(7) The Court of Appeal may remit any case stated under the provisions of this section to the Magistrate stating the same for further information from the Magistrate.

(8) If on application being duly made to a Magistrate to state a case the Magistrate declines so to do, the appellant may apply to the High Court or to any Judge of that Court for an order requiring the case to be stated.

**173. Duty of Magistrate as to special case.**

The Magistrate upon receiving an application, notice or order under the provisions of section 172 or when of his or her own motion he or she decides to state a case for the opinion of the Court of Appeal shall draw up the special case, concisely setting forth such facts and documents (if any) as may be necessary to enable the Court of Appeal to decide the questions raised in the case, and shall forthwith transmit the same together with a certified copy of the conviction order or judgment appealed from and all documents alluded to in the special case to the Registrar of the Court of Appeal.

**174. Registrar of Court of Appeal to file special case and set it down for argument.**

The Registrar of the Court of Appeal shall, upon receipt of the special case referred to in section 173, set the appeal down for argument on the date fixed by the Court of Appeal for hearing the same and shall cause notice of the filing of such special case to be served on the appellant and respondent respectively and on the application of either party

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shall supply such applicant with a copy of the special case on payment for the same at the rate of four cents per folio of 100 words.

**175. Appeal limited to reasons given in notice.**

At the hearing of an appeal on motion it shall not be competent for the appellant to go into, or to give evidence of, any other reasons for appeal than those set forth in his or her notice of appeal:

Provided that where, in the opinion of the Court of Appeal, other reasons for appeal than those set forth in the notice of appeal should have been given, or the statement of reasons is defective, the Court of Appeal may in its discretion allow such amendments to the notice of appeal upon such conditions as to service upon the respondent and as to costs as the Court may think fit.

**176. Court of Appeal on hearing of appeal on motion to decide on facts as well as law.**

On an appeal by motion the Court of Appeal may draw inferences of fact from the evidence given before the Magistrate and may decide the appeal with reference both to matters of fact and to matters of law.

**177. Power of Court of Appeal to take evidence.**

The Court of Appeal may, in any case where it may consider it necessary that evidence should be adduced, either

- (a) order such evidence to be adduced before the Court on some day to be fixed in that behalf;
- (b) order such evidence to be given by affidavit; or
- (c) refer the case back to the Magistrate to take such evidence, and may in such case either direct the Magistrate to adjudicate afresh after taking such evidence and subject to such directions in law, if any, as the Court of Appeal may think fit to give, or direct him or her, after taking such evidence, to report specific findings of fact for the information of the Court of Appeal; and on any such reference the case shall, so far as may be practicable and necessary, be dealt with as if it were being heard in the first instance.

**178. Power of Court of Appeal as to new trials.**

(1) On the hearing of an appeal in any civil cause or matter the Court of Appeal shall, if it appears to the Court of Appeal that a new trial should be held, have power to set aside the order appealed against and order that a new trial be held.

(2) On the hearing of an appeal in any civil cause or matter the following provisions shall apply:

- (a) a new trial shall not be ordered on the ground of misdirection, or of the improper admission or rejection of evidence unless in the opinion of the Court of Appeal some substantial wrong or miscarriage has been thereby occasioned;

- (b) a new trial may be ordered on any question without interfering with the finding or decision upon any other question; and if it appears to the Court of Appeal that any wrong or miscarriage as is mentioned in paragraph (a) above affects part only of the matter in controversy, or one or some only of the parties, the Court may order a new trial as to that part only, or as to that party or those parties only, and give final judgment as to the remainder;
- (c) a new trial shall not be granted or any judgment reversed by reason of the ruling of any court that the stamp upon any document is insufficient or that the document does not require a stamp.

(3) The Court of Appeal shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered, or if the interests of justice so require, order a new trial.

**179. On appeal by special case Court confined to facts and evidence stated therein.**

On an appeal by special case the Court of Appeal shall only entertain such appeal on the ground that the decision of the Magistrate was erroneous in point of law or in excess of jurisdiction and only upon the facts stated and the evidence mentioned in the special case.

**180. Powers of Court on hearing appeals.**

The Court of Appeal may adjourn the hearing of the appeal and may upon the hearing of the appeal confirm, reverse or modify the decision of the Magistrate or remit the matter with the opinion of the Court on the matter to the Magistrate or may make such other order in the matter as the Court may think just and may by such order exercise any power which the Magistrate might have exercised and such order shall have the same effect and may be enforced in the same manner as if it had been made by the Magistrate:

Provided that the Court of Appeal may, if of opinion that a different sentence should have been passed, quash the sentence passed by the Magistrate and pass such other sentence warranted by law (whether more or less severe) in substitution of the sentence passed by the Magistrate as the Court of Appeal thinks should have been passed.

**181. Costs.**

The Court of Appeal may make such order as to the costs to be paid by either party as the Court may think just and any costs so ordered shall cover all Court fees and all fees of counsel or solicitor:

Provided that no Magistrate shall be liable to any costs in respect of any appeal against his or her decision:

Provided further that if on the hearing of a special case the Court of Appeal adjudges such appeal to have been frivolous and vexatious the appellant or the solicitor who made application for the special case shall be liable, if the Court of Appeal shall so think fit, to pay a sum not exceeding three hundred dollars as costs of the appeal and such costs shall be recoverable as hereinafter provided.

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**182. Where appeal abandoned Court may give respondent costs.**

Where an appeal is abandoned or withdrawn the Court of Appeal on proof of notice of appeal having been given to the respondent may make an order that the respondent shall receive such costs as the Court of Appeal may allow and such costs shall be recoverable as hereinafter provided.

**183. How costs are payable.**

When an order is made upon either party for costs, such costs shall be payable to the proper officer of the Court to be by him or her paid over to the party entitled to the same and in the absence of any special direction shall be payable forthwith.

**184. How costs are recoverable.**

If the costs on the appeal are not paid within the time ordered by the Court of Appeal the proper officer shall on the application of the party entitled to the same or any person duly authorised on his or her behalf and on payment of the prescribed fee (if any) grant to such party a certificate that such costs have not been paid and on production of the certificate to any Magistrate within the State such Magistrate shall enforce the payment of such costs in the manner prescribed by this Act for the enforcing of the payment of costs awarded on a summary conviction and where a recognisance with sureties has been entered into shall enforce the payment due thereunder in the manner prescribed by this Act.

**185. Objection to form of information or conviction.**

If, on the hearing of the appeal, any objection is made on account of any defect in a complaint or information, or on account of any omission or mistake in the drawing up of a conviction or order, and if it is shown to the satisfaction of the Court of Appeal, that sufficient grounds were in proof before the Magistrate who made the conviction or order to have authorised the drawing up thereof free from that omission or mistake, the Court may amend the complaint or information, or the conviction or order, and proceed thereafter as if the defect, omission or mistake had not existed.

**186. Defects in proceedings under appeal.**

On an appeal no objection shall be taken or allowed to any proceeding in a Magistrate's Court for any defect or error which might have been amended by that Court, or to any complaint, summons, warrant, or other process to or of that Court, for any alleged defect therein in substance or in form, or for any variance between any complaint or summons and the evidence adduced in support thereof in that Court, or by reason only of the absence of the seal of the Magistrate on any such process:

Provided that if any error, defect, or variance mentioned in this section appears to the Court of Appeal at the hearing of an appeal to be such that the appellant has been thereby deceived or misled, the Court of Appeal may either refer the cause back to the Magistrate with directions to re-hear and determine it, or reverse the decision under appeal, or may make any other order for disposal of the cause which justice requires.

**187. Error or defect in recognisance.**

Where any recognisance or recognisances which shall have been entered into within the time by law required before any Magistrate for the purpose of complying with any such condition of appeal shall appear to the Court of Appeal to have been insufficiently entered into, or to be otherwise defective or invalid, it shall be lawful for the Court of Appeal, if it shall so think fit, to permit the substitution of a new and sufficient recognisance or new and sufficient recognisances to be entered into before the Court of Appeal in the place of such insufficient, defective, or invalid recognisance or recognisances, and for that purpose to allow such time, and make such examination, and impose such terms as to payment of costs to the respondent or respondents, as to the Court shall appear just and reasonable; and such substituted recognisance or recognisances shall be as valid and effectual to all intents and purposes as if the same had been duly entered into at any earlier time as required by section 168.

**188. Transmission and publication of judgment.**

(1) Where the decision of a Magistrate is varied or reversed on appeal, the judgment of the Court of Appeal shall be reduced into writing and shall set forth the reasons therefor.

(2) Within five days after the pronouncement of the judgment the Registrar of the Court of Appeal shall transmit a certified copy of the judgment to the Magistrate of the Court from which the appeal came.

(3) Any person may, on paying the fee for an office copy of documents, obtain from the Registrar of the Court of Appeal a copy of the judgment.

(4) The Registrar of the Court of Appeal shall without delay cause the judgment to be published in the *Gazette*.

**189. Enforcing judgment.**

(1) After the pronouncement of the judgment of the Court of Appeal and subject to the provisions of this section, the Magistrate of the Court from which the appeal came shall have the same jurisdiction and power to enforce, and shall enforce, any decision which has been affirmed, modified or amended by the Court of Appeal or any judgment pronounced by the Court of Appeal, in the same manner in all respects as if that decision or judgment had been pronounced by himself or herself:

Provided that in any case where an order for the imprisonment of a person is affirmed on appeal, whether with or without modification or amendment, the Court of Appeal may, if it considers it expedient to do so, forthwith commit the person to prison in pursuance and in execution of the order.

(2) The imprisonment of the person (if it has not previously commenced) shall be reckoned to begin from the day on which he or she is arrested to be taken to the prison wherein he or she has been ordered to be imprisoned; and if the person has been released from custody on giving the security hereinbefore mentioned, he or she shall be imprisoned for such further period as, with the time during which he or she has been already imprisoned, is equal to the period for which he or she was ordered to be imprisoned as aforesaid.

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## ***PART X – WITNESSES***

### **190. Summoning witnesses.**

If it shall be made to appear to any Magistrate by the oath of any credible person that any person is likely to give material evidence in any matter where an information or complaint is laid or made to be inquired into by, tried or heard before such Magistrate and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed in that behalf such Magistrate shall issue his or her summons to such person requiring him or her to be and appear at a time and place mentioned in the summons to testify to what he or she knows concerning such matter as aforesaid.

*[Originally section 188. Note: At the 2002 cut-off date sections 189 to 198 (inclusive) were renumbered accordingly and this Part renumbered as Part X. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

### **191. Warrant may issue on non-appearance.**

If any person summoned in accordance with the provisions of section 189 fails to appear at the time and place appointed in the summons the Magistrate, on proof upon oath that the summons were served personally on the person or left with some person at his or her last or usual place of abode, may, unless satisfied that there is some lawful excuse for the failure to appear issue a warrant to bring the person at a time and place mentioned in the warrant before the Magistrate or such other Magistrate as may then be there to testify as required by section 190 and the warrant may be executed in any part of the State.

### **192. When warrant may issue in first instance.**

If the Magistrate be satisfied by evidence upon oath that it is probable that the person referred to in sections 190 and 191 will not attend to give evidence unless compelled to do so then instead of issuing the summons as provided in section 190 the Magistrate may issue a warrant in the first instance.

### **193. Witness refusing to be sworn or to answer.**

If any person attending as a witness or so summoned or brought upon a warrant as provided in section 192 refuses to be examined on oath concerning the premises or refuses to take such oath, or having taken such oath refuses to answer any lawful question put to him or her without giving just excuse for so doing the Magistrate may by warrant commit such person to prison there to remain and be imprisoned for any period not exceeding ten days unless he or she in the meantime consents to be examined and to answer concerning the premises.

### **194. Prosecutor a competent witness.**

The prosecutor or complainant in any charge or complaint whether having any pecuniary interest in the result or not shall be a competent witness to support such charge or complaint.

**195. When depositions may be read at the trial.**

If upon the trial of the person accused it be proved on the oath of any reliable witness that any person whose deposition has been taken is dead, or so ill as to be unable to travel, or is absent from the State, and if it be also proved that such deposition was taken in the presence of the accused and that he or she or his or her counsel or solicitor had a full opportunity of cross-examining the witness then if the deposition purports to be signed by the Magistrate by or before whom the same purports to have been taken it shall be read as evidence in the prosecution without further proof thereof unless it be proved that such deposition was not in fact signed by the Magistrate purporting to have signed the same.

**196. Taking deposition of a witness who is ill or about to leave the State.**

If it is proved upon oath before any Magistrate that any person is dangerously ill and unable to travel, or is about to leave the State for a period extending beyond the time when the accused if committed for trial would be tried and that such person is able and willing to give material information as to any offence which the Magistrate is not empowered to try summarily and with which any person has been charged before a Magistrate (whether the preliminary enquiry has or has not been held or is in progress, but not after the accused has been discharged) unless by order of a Judge, the Magistrate may take the deposition of such person at the place where such person is lying sick or if such person is about to leave the State as aforesaid at the Magistrate's Court House, in the manner prescribed by this Act, and shall, after taking it, sign it, adding to it by way of heading, a statement of the reason for taking it, and of the day and place on and at which it was taken, and of the names of the persons, if any, present at the taking thereof.

**197. Notice to the prisoner to be present.**

(1) Whenever it is intended to take any deposition referred to in section 195, reasonable notice that it is intended so to be taken shall, if the accused is in prison, be served upon him or her in prison, or if he or she is on bail, shall be either served upon him or her or left at his or her last or most usual place of abode.

(2) If the accused is in prison, any Magistrate shall by an order in writing direct the gaoler having the custody of the accused to convey him or her, or cause him or her to be conveyed to the place where the deposition is to be taken, for the purpose of being present when the same is taken, and to take him or her back to prison when it has been taken, but no accused person shall be taken to any such place (other than the Magistrate's Court House) for such a purpose without his or her consent.

(3) The expenses of such conveyance shall be paid out of the funds applicable to the expenses of the prison from which the accused is taken.

**198. Magistrate to deal with the deposition like any other deposition.**

If the deposition referred to in section 196 relates to an offence, the preliminary inquiry into which has ended, the Magistrate taking it shall send it to the Registrar to be placed with the other depositions taken in the case and if it relates to an offence with which some person has been charged, and as to which a preliminary inquiry is in progress, the Magistrate shall deal with it like any other deposition taken in the matter under preliminary



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inquiry; but such person as aforesaid so making a deposition as aforesaid shall not be called upon to enter into a recognisance to give evidence at the trial of the accused.

**199. Such deposition to be admissible in evidence.**

Every deposition so taken shall be a deposition taken in the case to which it relates, and shall be admissible in evidence on the same conditions as other depositions:

Provided that it shall be admissible against the accused, although it may have been taken in his or her absence, and may not have been read over to the witness in his or her presence, and although neither he or she nor his or her counsel or solicitor had an opportunity of cross-examining the witness, if it is proved that the accused having received such notice as aforesaid that such deposition was about to be taken, refused or neglected to be present, or to cause his or her counsel or solicitor to be present when it was taken, or that it was taken at the Magistrate's Court House:

Provided also that if it is proved that the person whose evidence has been taken as aforesaid has so recovered from his or her sickness or returned to the State as to be able to be present at the Circuit Court before which the accused is tried such deposition so taken as aforesaid shall not be read.

**200. Defendant to have the same privilege as the prosecutor under last section.**

Any person charged with having committed an offence not punishable summarily may on notice to the complainant require that the evidence of any such person as in section 195 mentioned may be taken in like manner, and any deposition so taken shall be dealt with and be admissible in evidence on the same conditions as other depositions and on conditions corresponding to those mentioned in the last preceding section.

***PART XI – RECOGNISANCES AND SECURITY***

**201. Binding over to keep the peace.**

Any person may by complaint call upon any other person to show cause why he or she should not be bound over in recognisances to keep the peace or be of good behaviour towards the complainant and the Magistrate may make an order adjudging the person complained against to enter into recognisances and find sureties in that behalf and the complainant and defendant and witnesses may be called and examined and cross-examined and the complainant and defendant shall be subject to all the provisions of this Act relating to summary convictions except so far as is by this Act otherwise provided.

*[Originally section 199. Note: At the 2002 cut-off date sections 200 to 214 (inclusive) were renumbered accordingly and this Part renumbered as Part XI. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

**202. Defendant in default may be committed.**

The Magistrate may order the defendant in default of complying with such order as in the last preceding section mentioned to be imprisoned for a period not exceeding six months.

**203. Magistrate may vary the order on cause shown.**

Where a person has been committed to prison by a Magistrate as in the last preceding section mentioned any Magistrate for the same district may on application made to him or her inquire into the case of the person so committed and if upon new evidence being produced on proof of a change of circumstances the Magistrate thinks it just so to do he or she may reduce the amount mentioned in the recognisance or dispense with the sureties or otherwise deal with the case as he or she shall think just.

**204. Form of recognisance.**

Every recognisance shall specify the profession or calling of the person entering into or acknowledging the same together with his or her Christian and surname and the name of his or her place of residence and when duly acknowledged shall be subscribed by the Magistrate before whom it is acknowledged and it shall be conditioned, in the case of

- (a) an accused person, that he or she will duly appear at the time and place of trial or of adjourned hearing, and not depart the Court without leave;
- (b) a prosecutor or witness, that he or she will duly appear at the time and place of the trial of the accused and then and there prosecute or give evidence or prosecute and give evidence as the case may be against the person accused;
- (c) recognisances to keep the peace or to be of good behaviour and in any other case, in such manner as the Magistrate shall direct.

**205. Notice of recognisance.**

A written notice of the recognisance signed by the Magistrate shall at the same time be given to the person bound thereby.

**206. Proof of sufficiency.**

The Magistrate may in his or her discretion require any person entering into recognisances whether as a surety or otherwise to justify upon oath as to their sufficiency.

**207. Estreating recognisances conditioned for appearance.**

Where a recognisance is conditioned for the appearance of a person before a Magistrate or for his or her doing some other matter or thing to be done before a Magistrate or in a prosecution in a Magistrate's Court, the Magistrate if such recognisance appears to him or her to be forfeited may declare the same to be forfeited and enforce payment of the sum due under the recognisance in the same manner as the payment of a fine may be enforced which has been imposed on summary conviction:

Provided that at any time before the sale of goods under a warrant of distress for the said sum the Magistrate or any other Magistrate for the same district may cancel or mitigate the forfeiture upon the person liable applying and giving security to the satisfaction of the Magistrate for the future performance of the conditions of his or her

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recognisance and paying or giving security for the payment of the costs incurred in respect of the forfeiture or upon such other conditions as the Magistrate may think just.

**208. Estreating recognisance conditioned for keeping the peace or doing some act or thing.**

Where a recognisance conditioned to keep the peace or be of good behaviour or not to do or commit some act or thing has been entered into by any person as principal or surety before a Magistrate, the Magistrate or any other Magistrate for the same district upon proof of the conviction of the person bound as principal by the recognisance of any offence which is in law a breach of the condition of the same may by conviction adjudge the recognisance to be forfeited and adjudge the person bound by the recognisance whether as principal or surety to pay the sums for which they are respectively bound.

**209. Payment of sums forfeited.**

All sums payable in respect of a recognisance declared or adjudged by a Magistrate to be forfeited shall be paid into the Public Treasury or if the Magistrate shall so direct, to the clerk of the Magistrate or if he or she has no clerk to the Magistrate himself or herself and shall be paid and applied in the manner in which fines imposed by a Magistrate in respect of which no special appropriation is made, are payable and applicable.

**210. Recognisances may be transmitted to Registrar for Estreat.**

A person seeking to put in force a recognisance to keep the peace or to be of good behaviour may by notice in writing require such recognisance to be transmitted to the Registrar to be dealt with as the law provides.

**211. Securities.**

A person shall give security under this Act, whether as principal or surety, either by the deposit of money with the Magistrate or his or her clerk, if any or by an oral or written acknowledgment of the undertaking, or condition by which and of the sum for which he or she is bound, in such manner and form as may be for the time being directly by any rule made in pursuance of this Act, and evidence of such security may be provided by entry thereof in the register under this Act of proceedings of a Magistrate or otherwise as may be directed by such rule.

**212. How forfeited security is to be realised.**

Any sum which may become due in pursuance of a security under this Act from a surety shall be recoverable summarily, in a manner directed by this Act with respect to a civil debt or summons by a constable or by the clerk of the Magistrate directing such security to be given, or by some other person authorised for the purpose by that Magistrate or any other Magistrate acting for the same district.

**213. Security given by a principal on conviction to be recovered like a fine.**

A Magistrate may refuse payment of any sum due by a principal in pursuance of a security under this Act which appears to the Magistrate to be forfeited, in the same manner as the payment of a fine may be enforced which has been imposed on summary conviction,

if the security was given for a sum adjudged by conviction, and in any other case in like manner as if it were a sum adjudged by a Magistrate to be paid as a civil debt:

Provided that before a warrant of distress for the sum is issued, such notice of the forfeiture shall be served on the principal, and in such manner as may be directed for the time being by rules under this Act, and subject thereto by the Magistrate authorising security, or by any Magistrate to whom application is made for the issue of the warrant.

**214. Surety paying under a security may recover the amount from the principal.**

Any sum paid by a surety on behalf of his or her principal in respect of a security under this Act, together with all costs, charges and expenses incurred by the surety in respect of the security, shall be deemed a civil debt due to him or her from the principal, and may be recovered before a Magistrate in a manner directed by this Act, with respect to the recovery of a civil debt which is recoverable summarily.

**215. Security to be realised before other steps are taken.**

Where security is given under this Act for payment of a sum of money, the payment of such sum shall be enforced by means of such security in substitution for other means of enforcing the payment.

**216. Recognisance taken out of Court.**

When a Magistrate has fixed as respects any recognisance, the amount in which the principal and the sureties (if any) are to be bound, the recognisance, notwithstanding anything in this or any other statute, need not be entered into before the Magistrate but may, subject to any rules made in pursuance of this Act, be entered into by the parties before any other Magistrate or before any clerk of a Magistrate, or before any officer of police or constable in charge of any police station or where any of the parties is in prison before the keeper of the prison, and where a recognisance has been entered into for the due appearance of the principal at any Magistrate's Court and such person duly appears in accordance with the condition in such recognisance, the bail may be renewed by any constable in the said Court, if the Magistrate be not present, and thereupon all the consequences of law shall ensue, and the provisions of this Act with respect to recognisances taken before a Magistrate shall apply as if the recognisances had been entered into before the said Magistrate as heretofore by law required.

## **PART XII – DISTRESS**

**217. What may not be taken.**

The wearing apparel and bedding of a person and his or her family, and, to the value of three hundred dollars, the tools and implements of his or her trade, shall not be taken under a distress issued by a Magistrate.

*[Originally section 215. Note: At the 2002 cut-off date sections 216 to 224 (inclusive) were renumbered accordingly and this Part renumbered as Part XII. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

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**218. Warrant how executed.**

A warrant of distress shall be executed by or under the direction of a constable.

**219. Public auction after five days.**

Save so far as the person against whom the distress is levied otherwise consents in writing, the distress shall be sold by public auction, and five clear days at the least shall intervene between the making of the distress and the sale, and where written consent is so given as aforesaid the sale may be made in accordance with such consent.

**220. Period during which distress to be sold.**

Subject as aforesaid the distress shall be sold within the period fixed by the warrant, and if no period is so fixed, then within the period of fourteen days from the date of making of the distress, unless the sum for which the warrant was issued, and also the charges of taking and keeping the said distress, are sooner paid.

**221. Impounding goods levied on.**

Subject to any directions to the contrary given by the warrant of distress, where the distress is levied on household goods, the goods shall not, except with the consent in writing of the person against whom the distress is levied, be removed from the house until the day of sale, but so much of the goods shall be impounded as are in the opinion of the person executing the warrant sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark, and any person removing any goods so marked, or defacing or removing the said mark, shall, on summary conviction, be liable to a fine not exceeding one hundred dollars.

*[Amended by Act 7/1976]*

**222. Penalty for extortion etc.**

Where a person charged with the execution of a warrant of distress, wilfully retains from the produce of any goods sold to satisfy the distress, or otherwise exacts, any greater costs and charges than those to which he or she is for the time being entitled by law, or makes any improper charge, he or she shall be liable, on summary conviction to a fine not exceeding one hundred and fifty dollars.

*[Amended by Acts 7/1976 and 9/1986]*

**223. Account of costs to be sent to Magistrate.**

A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall be sent by the constable charged with the execution of the warrant as soon as practicable to the Magistrate issuing the warrant, and it shall be lawful for the person upon whose goods the distress was levied within one month after the levy of the distress to inspect such account without fee or reward at any reasonable time to be appointed by the Magistrate, and to take a copy of such account.

**224. Costs of sale to be deducted from proceeds.**

A constable charged with the execution of a warrant of distress shall cause the distress to be sold, and may deduct out of the amount realised by the sale all costs and charges actually incurred in effecting the sale, and shall render to the owner the overplus,

if any, after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.

**225. Warrant not to be executed if amount due and all costs are paid or tendered.**

Where a person pays or tenders to the constable charged with the execution of a warrant of distress the sum mentioned in the warrant, or produces the receipt for the same of the Magistrate or the clerk of the Magistrate issuing the warrant, and also pays the amount of the costs and charges of the distress up to the time of the payment or tender, the constable shall not execute the warrant.

**226. Replevy.**

(1) It shall be lawful for any person, other than the person mentioned in the warrant, claiming to be the owner of property levied on within the five clear days in section 219 mentioned to replevy the same in the manner and form in which goods are replevied which have been distrained upon for non-payment of rent.

(2) If within such five days as aforesaid the property levied on is not replevied no person other than the person mentioned in the warrant as aforesaid shall have any right of action against any other person in respect of such property.

### **PART XIII – MISCELLANEOUS PROVISIONS**

**227. General provisions as to local jurisdiction of Magistrates.**

For the purposes of the trial of any offence punishable on summary conviction under this Act or under any other enactment whether past or future, the following provisions shall have effect:

- (a) where the offence is committed in any harbour, river, arm of the sea, or other water, tidal or otherwise, which runs between or forms the boundary of the district of two or more Magistrates, such offence may be tried by any one of such Magistrates;
- (b) where the offence is committed on the boundary of the districts of two or more Magistrates or within the distance of five hundred yards of any such boundary, or is begun within the district of one Magistrate and completed within the district of another Magistrate, such offence may be tried by any one of such Magistrates;
- (c) where the offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in inland navigation, the person accused of such offence may be tried by any Magistrate through whose district such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed; and where the side, bank, centre or other part of the highway, road or inland navigation, along which the carriage, cart, vehicle or vessel passed in the course of such journey or voyage is the boundary of the district of two or more Magistrates, a person may be tried for such offence by any one of such Magistrates;

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- (d) an offence which is authorised by this section to be tried by any Magistrate may be dealt with, heard, tried, determined, adjudged and punished as if the offence had been wholly committed within the district of such Magistrate;
- (e) all offences against the laws relating to the revenue, the post office, shipping, ports and quarantine that may by any enactment be tried, determined and adjudged by any Magistrate shall, at the option of the prosecutor, complainant or informer, be so heard, tried, determined and adjudged at the chief town in the State, instead of in the district in which the offence charged is alleged to have been committed.

*[Originally section 225. Note: At the 2002 cut-off date sections 226 to 248 (inclusive) were renumbered accordingly and this Part renumbered as Part XIII. At the 2009 cut-off date all the sections in this Part have been renumbered as a result of renumbering section 72A as section 74]*

**228. No objection to be allowed on point of form or variance.**

No objection shall be allowed to any information, complaint, summons or warrant for any alleged defect therein in substance or in form or for any variance between such information, complaint, summons or warrant and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint.

**229. No objection to be allowed as to variance as to time or place.**

In all cases of information or complaint for offences or acts punishable upon summary conviction any variance between the information or complaint and the evidence adduced in support thereof, as to the time at which such offence or act is alleged to have been committed shall not be deemed material, if it be proved that such information or complaint was in fact laid within the time limited by law for laying the same, and any variance between the information or complaint and the evidence adduced in support thereto, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material if the offence or act be proved to have been committed within the jurisdiction of the State.

**230. If party charged is deceived by variance, Magistrate may adjourn hearing.**

If any such variance or any other variance between the information or complaint and the evidence adduced in support thereof, appears to the Magistrate present and acting at the hearing to be such that the party charged by the information or complaint has been thereby deceived or misled, the Magistrate may, upon such terms as he or she thinks fit, adjourn the hearing of the case to some future day, and in the meantime commit the defendant to prison, or to such other custody as the Magistrate thinks fit, or may discharge him or her upon his or her entering into a recognisance, with or without surety or sureties at the discretion of the Magistrate, conditioned for his or her appearance at the time and place to which the hearing is adjourned.

**231. Description of the property of partners, etc.**

In any information or complaint or proceeding thereon in which it is necessary to state the ownership of any property belonging to or in possession of partners, joint-tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons and to

state the property to belong to the person so named, and another, or others as the case may be; and whenever in any information or complaint or the proceedings thereon it is necessary to mention for any purpose whatsoever any partners, joint-tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and whenever in any information or complaint or the proceedings thereon, it is necessary to describe the ownership of any work or building made, maintained, or repaired at the expense of the corporation or inhabitants of any place, or of any materials for the making or repairing the same, they may be therein described as the property of the inhabitants of such place.

**232. Description of the offence.**

The description of any offence in the words of the Act, order, by-law, regulation, or other document creating the offence or in similar words shall be sufficient in law.

**233. Exception or proviso may be proved by defendant.**

Any exception, exemption, proviso, excuse or qualification whether it does or does not accompany in the same section the description of the offence in the Act, order, by-laws, regulation or other document creating the offence may be proved by the defendant but need not be specified or negated in the information or complaint and if so specified or negated no proof in relation to the matter so specified or negated shall be required on the part of the informant or complainant.

**234. Warrant of distress not to be impeached for want of form.**

A warrant of distress shall not be deemed void by reason only of any defect therein, if it be therein alleged that a conviction or order has been made and there is a good and valid conviction or order to sustain the same, and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason of any defect in the warrant, or of any irregularity in the execution of the warrant, but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress, so however that if amends are tendered before action brought and if the action is brought are paid into Court in the action and if the plaintiff does not recover more than the sum so tendered and paid into Court, the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs to be taxed as between solicitor and client.

**235. Power to sell forfeitures.**

All forfeitures not pecuniary which are in respect of an offence triable by a Magistrate or which may be enforced by a Magistrate may be sold or disposed of in such manner as the Magistrate having cognisance of the case may direct and the proceeds of such sale shall, unless otherwise provided, be applied in the like manner as if the proceeds were a fine imposed under the Act on which the proceedings for the forfeiture are founded.

**236. Procedure where a person charged with an indictable offence is dealt with summarily.**

Where an indictable offence is under the circumstances in this Act mentioned authorised to be dealt with summarily



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- (a) the procedure shall until the Magistrate assumes the power to deal with such offence summarily be the same in all respects as if the offence were to be dealt with throughout as an indictable offence but when and as soon as the Magistrate assumes the power to deal with the offence summarily the procedure shall be the same from and after that moment as if the offence were an offence punishable summarily and not on indictment and the provisions of this Act shall apply accordingly;
- (b) the evidence of any witness taken before the Magistrate assumed such power as aforesaid need not be taken again, but every such witness shall if the defendant so require it be recalled for purposes of cross-examination;
- (c) the conviction for any such offence shall be of the same effect as for the conviction for the offence on indictment and the Magistrate may make the like order for the restitution of property as might have been made by the Court before which the person convicted would have been tried if he or she had been tried on indictment;
- (d) where the Magistrate has assumed the power to deal with the case summarily and shall dismiss the charge, he or she shall, if so required, deliver to the person charged a copy certified under his or her hand of the order of dismissal, and such dismissal shall be of the same effect as an acquittal on a trial of an indictment for the offence;
- (e) the conviction shall contain a statement as to the plea of guilty of the person charged and of his or her consent to be tried by the Magistrate.

**237. Power of Magistrate to adjourn and remand.**

If at any time during any proceedings before a Magistrate it shall become necessary to adjourn the hearing of the same the Magistrate may from time to time adjourn the case to a certain time and place to be then appointed in the hearing of the parties, or their counsel or solicitors, and if the defendant is in custody he or she may admit him or her to bail as in this Act provided, or by his or her warrant remand him or her to prison for any time not exceeding eight clear days, and if such remand shall not be for longer than three clear days the Magistrate may verbally order the peace officer in whose custody the defendant may be to keep him or her in custody and to bring him or her up for further examination on the day appointed for the adjourned hearing:

Provided that the Magistrate may order the defendant to be brought up to attend such further hearing as aforesaid at any time prior to the expiration of the time for which he or she was remanded and the officer in whose custody he or she shall be, shall duly obey such order.

**238. Fees in criminal proceedings.**

- (1) The fees specified in the Third Schedule to this Act shall be payable in all criminal proceedings under this Act, and the Chief Justice may, by Statutory Rules and Orders, from time to time, amend the Third Schedule.
- (2) The Magistrate may make an order respecting

- (a) the entering of information or complaint before the court;
  - (b) the issuing of summons or warrants free of charge.
- (3) The Magistrate shall return any fees paid in respect of any information or complaint for larceny or malicious injury which has been proved.
- (4) The provisions of subsection (1) of this section shall not apply
- (a) to any preliminary inquiry upon information or complaint of any indictable offence;
  - (b) to any information or complaint entered by a peace officer in the discharge of his or her public duty;
  - (c) where the Governor-General exempts any proceedings taken and had before a Magistrate
    - (i) by any board or public body, or
    - (ii) by a public official acting in the performance of his or her duty.
- [Substituted by Act 20/1998]*

**239. Proof by declaration of service of process, of hand writing, etc.**

(1) In a proceeding within the jurisdiction of a Magistrate without prejudice to any other mode of proof, service on a person of any summons, notice, process or document required or authorised to be served, and the handwriting and seal of any Magistrate or other officer or person on any warrant, summons, notice, process or document may be proved by a solemn declaration taken before a Magistrate or before a commissioner to administer oaths in the High Court or before the Registrar of the High Court; and any declaration purporting to be so taken shall until the contrary is shown be sufficient proof of the statements contained therein, and shall be received in evidence in any Court or legal proceeding without proof of the signature or of the official character of the person or persons taking or signing the same.

(2) The declaration may be in the form provided by a rule under this Act, and if any declaration made under this section is untrue in any material particular, the person wilfully making such false declaration commits the offence of wilful and corrupt perjury.

**240. Power to preserve order.**

If any person

- (a) wilfully obstructs by act or threat an officer of the Magistrate's Court in the performance of his or her duty in Court;
- (b) within or close to the room or place where the Magistrate is sitting, wilfully misbehaves in a violent, threatening or disrespectful manner, to the disturbance of the Magistrate, or to the intimidation of suitors or others resorting to the Court; or
- (c) wilfully insults the Magistrate, or any assessor, or any officer of the Court, during his or her sitting or attendance in Court;

the person so acting shall be liable to be immediately apprehended by order of the Magistrate, and if the Court is then sitting or about to sit to be detained until the rising of

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the Court, and on inquiry and consideration then and there, and without further trial, to be punished with a fine not exceeding one hundred and fifty dollars or in default of payment with imprisonment for a period of not more than fourteen days.

*[Amended by Acts 7/1976 and 9/1986]*

**241. Power to enforce execution of process.**

If any person resists or obstructs the execution of any summons, warrant or other process issued by a Magistrate, any Magistrate may issue a warrant for the arrest of that person and shall cause that person to be brought before him or her and may order the person to pay a fine not exceeding one hundred and fifty dollars or to be imprisoned for a period not exceeding one month, with or without hard labour.

*[Amended by Acts 7/1976 and 9/1986]*

**242. Minute to be recorded.**

Where any person is punished under either of the last two preceding sections the Magistrate shall make and keep a minute recording the facts of the case and the extent of the punishment.

*[Amended by Act 6/1976]*

**243. No person to be punished twice for the same offence.**

A person punished under section 240 or section 241 shall not be liable to a prosecution or action in respect of the same matter.

**244. Enforcement of orders made under sections 240 and 241.**

An order for imprisonment or an order for the payment of any money penalty made by a Magistrate under section 240 or section 241 may be enforced in the same manner as an order for imprisonment or an order for the payment of a fine upon a conviction and every such order may be reviewed on appeal in the manner provided by this Act for appealing from a conviction as fully as though such order were a conviction.

**245. Disposal of fees, fines, etc.**

All fees, fines, penalties, proceeds of forfeitures and other moneys coming into the hands of a Magistrate or a clerk to a Magistrate shall be forthwith paid by him or her into the Treasury of the State for the public use of the State except where otherwise provided by any other enactment.

**246. Return of property taken from prisoner.**

Where any property has been taken from a person charged before a Magistrate with any offence punishable either on indictment or on summary conviction, a report shall be made by the police to the Magistrate of the fact of such property having been taken from the person charged and of the particulars of the property, and the Magistrate shall, if of opinion that the property or any portion thereof can be returned consistently with the interests of justice and with the safe custody of the person charged, direct that the property or any portion thereof to be returned to the person charged or to such other person as he or she may direct.

**247. Register of Court of District Magistrate.**

(1) Every Magistrate or his or her clerk (if any) shall keep a register of the minutes or memoranda of all the convictions and orders of the Magistrate, and of such other proceedings as are directed by a rule under this Act to be registered and shall keep the same with such particulars and in such form as may be from time to time directed by a rule under this Act.

(2) The register, and also any extract from the register certified by the clerk or the Magistrate keeping the same to be a true extract, shall be *prima facie* evidence of the matters entered in the extract for the purpose of informing a Magistrate acting for the same district as the Magistrate whose convictions, orders, and proceedings are entered in the register; but nothing in this section shall dispense with the legal proof of a previous conviction for an offence when required to be proved against a person charged with another offence.

(3) The register kept by any particular clerk or Magistrate in pursuance of this section may be distinguished by the name of his or her district or by such name or description as may be directed by a rule under this Act.

(4) The entries relating to each minute, memorandum or proceeding shall be either entered or signed by the Magistrate by or before whom the conviction or order or proceeding referred to in the minute or memorandum was made or had.

(5) Every sum paid to the clerk or Magistrate in accordance with this Act and the appropriation of such sum, shall be entered and authenticated in such manner as may be from time to time directed by a rule under this Act.

(6) Every register shall be open for inspection, without fee or reward, by any Magistrate or by any person authorised in that behalf by a Magistrate.

*[Amended by Act 6/1976]*

**248. Power to make rules.**

(1) The Attorney General may make rules in relation to the following matters:

- (a) the giving security under this Act;
- (b) the forms to be used under this Act;
- (c) the regulating of the form of the account to be rendered by Magistrates or clerks of Magistrates of fines, fees and other sums received by them, and providing for the discontinuance of any existing account rendered unnecessary by the aforesaid account;
- (d) the regulating of the procedure on appeals by special case or otherwise under this Act; and
- (e) any other matter in relation to which rules are authorised or required to be made under or for the purpose of carrying into effect this Act.

*[Amended by Act 8/1994]*

(2) Any rule purporting to be made in pursuance of this section shall be laid before the National Assembly for consideration and approval as soon as may be after it is made and shall be judicially noticed:

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Provided that such rules until so considered and approved shall have the force and effect of law.

**249. As to offences relating to post office and revenue.**

All offences against any provisions in the Acts of the State or the Imperial Acts relating to the post office where the penalty prescribed does not exceed five hundred dollars and all offences against any enactment of the State or of the Imperial Acts relating to the revenue may be punished summarily by a Magistrate under this Act and this Act shall apply to all such offences.

*[Amended by Acts 7/1976 and 9/1986]*

**250. Application of this Act.**

Where by any past or future enactment of the State

- (a) any offence is directed or authorised to be prosecuted summarily or “under the Magistrate’s Summary Jurisdiction Acts” or any words are used implying that such offence is to be prosecuted summarily; or
- (b) where any sum of money is directed or authorised to be recovered as aforesaid; or
- (c) where a Magistrate is authorised to order or require a person to do or abstain from doing any act or thing other than the payment of money as aforesaid; or
- (d) where any thing is declared capable of being enforced summarily or by summary order; or
- (e) where any amount is declared to be recoverable summarily as a civil debt;

then this Act shall apply accordingly and where in such past or future enactment as aforesaid the expression “Magistrate’s Summary Jurisdiction Acts” is used, such expression as aforesaid shall mean this Act and any enactment amending the same.

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**FIRST SCHEDULE**

(Sections 50 and 51)

Indictable Offences which can be dealt with summarily under this Act.

FIRST COLUMN <i>Adults pleading guilty.</i>	SECOND COLUMN <i>Adults consenting.</i>
<ol style="list-style-type: none"> <li>1. Simple larceny where the money or personal property stolen in the opinion of the Magistrate exceeds the amount or value of two thousand dollars.</li> <li>2. Offences declared by any Act for the time being in force to be punishable as simple larceny.</li> <li>3. Larceny from or stealing from the person.</li> <li>4. Larceny as a clerk or servant.</li> <li>5. The obtaining by false pretences with intent to cheat or defraud money or personal property exceeding in the opinion of the Magistrate the amount or value of two thousand dollars.</li> <li>6. Embezzlement by clerk or servant.</li> <li>7. Receiving money or personal property stolen or obtained by false pretences with intent to cheat or defraud knowing the same to have been so stolen or obtained where such money or personal property in the opinion of the Magistrate exceeds the amount or value of two thousand dollars, or receiving money or personal property stolen from the person or by a clerk or servant or embezzled, knowing the same to have been so stolen or embezzled.</li> </ol>	<ol style="list-style-type: none"> <li>1. Offences declared by any Act for the time being in force to be punishable as simple larceny, where the value of the whole of the property alleged to have been stolen, destroyed, injured or otherwise dealt with by the offender does not in the opinion of the Magistrate exceed two thousand dollars.</li> <li>2. Larceny from or stealing from the person where the value of the whole of the property alleged to have been stolen does not in the opinion of the Magistrate exceed two thousand dollars.</li> <li>3. Larceny as a clerk or servant where the value of the whole of the property alleged to have been stolen does not in the opinion of the Magistrate exceed two thousand dollars.</li> <li>4. Embezzlement by a clerk or servant where the value of the whole of the property alleged to have been embezzled does not in the opinion of the Magistrate exceed one two thousand dollars.</li> <li>5. Receiving money or personal property embezzled, knowing the same to have been so embezzled, where such money or personal property does not in the opinion of the Magistrate exceed the amount or value of two thousand dollars.</li> </ol>

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| <p>8. Aiding, abetting, counselling or procuring the commission of simple larceny where the money or personal property stolen in the opinion of the Magistrate exceeds the amount or value of two thousand dollars, or an offence declared by any Act for the time being in force to be punishable as simple larceny or of larceny or stealing from the person, or of larceny as a clerk or servant or the obtaining by false pretences with intent to cheat or defraud money or personal property exceeding in the opinion of the Magistrate the amount or value of two thousand dollars.</p> <p>9. Attempt to commit simple larceny where the money or personal property stolen in the opinion of the Magistrate exceeds the amount or value of two thousand dollars, or an offence declared by any Act for the time being in force to be punishable as simple larceny or to commit larceny from or steal from the person or to commit larceny as a clerk or servant, or to obtain by false pretences with intent to cheat or defraud money or personal property exceeding in the opinion of the Magistrate the amount or value of two thousand dollars.</p> | <p>6. Aiding, abetting, counselling or procuring the commission of an offence declared by any Act for the time being in force to be punishable as simple larceny or of larceny or stealing from the person or of larceny as a clerk or servant money or personal property where the value of the whole of the property which is the subject of the alleged offence does not in the opinion of the Magistrate exceed two thousand dollars.</p> <p>7. Attempt to commit simple larceny or an offence declared by any Act for the time being in force to be punishable as simple larceny or to commit larceny from or steal from the person or to commit larceny as a clerk or servant, or to obtain by false pretences with intent to cheat or defraud money or personal property where the value of the whole of the property which is the subject of the alleged offence does not in the opinion of the Magistrate exceed two thousand dollars.</p> |
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[Amended by Act 8/1994]

## SECOND SCHEDULE

### 1. COURT FEES

	\$	¢
(a) Entering a Suit, including Summons and Copy for Service and Judgment .....	10.00	
(b) Hearing Fee.....	5.00	
(c) Court Interpreter's Fee.....	25.00	
(d) Order for leave to sue in another district.....	5.00	
(e) Summons to witness and copy for service .....	2.50	
(f) Execution (Fi. fa) .....	10.00	
(g) Warrant of distress under Small Trespass Act or of possession or execution under the Small Tenements Act .....	10.00	
(h) Warrant of Commitment.....	10.00	
<i>[Inserted by Act 9/1999]</i>		
(i) Warrant of Committal under Small Trespass Act .....	10.00	

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(j)	Order of Attachment of moneys or Garnishee Summons .....	10.00
(k)	Any other Summons, including Copy for Service	5.00
(l)	Order for a New Trial .....	5.00
(m)	Affidavit, each oath .....	2.50
(n)	Appointment of Estimators, under Small Tenements Act	10.00

*[Schedule renumbered by Act 9/1999]***2. BAILIFF'S FEES**

(a)	Service of Summons, Notice or other document required to be served .....	2.50
(b)	Arrest under order of Committal on Judgment Summons and taking person arrested to prison .....	10.00
(c)	Seizure of Property under Attachment, Possession or Execution .....	10.00
(d)	Taking Security or Bail and enquiring into sufficiency thereof .....	10.00
(e)	Levy Fee .....	7½ percent on net proceeds of sale.

**3. VARIATION OF FEES**

- (a) The scale of fees in paragraphs (1) and (2) above shall be reduced by 50% where the amount claimed or in dispute does not exceed \$100.00 and shall be increased by 50% where it exceeds \$1,000.00.
- (b) Where no specific amount of claim is endorsed upon the writ of summons, the scale fees contained in paragraphs 1 and 2 of the Schedule shall be payable without variation, except that the Magistrate shall unless in exceptional circumstances order special additional Court fees to be paid by the party against whom judgment is given in all cases where the amount adjudged recoverable exceeds \$1,000.00, in accordance with the scale fees contained in subparagraph (a) above.
- (c) Where counter claims are set off against each other, whether for liquidated amounts or not, each claim shall be calculated separately in deciding which scale of Court fees shall be chargeable therefor.

*[Second Schedule substituted by Act 20/1998]***THIRD SCHEDULE****FEES IN SUMMARY PROCEEDINGS**

	\$	¢
(a)	Entering an information or a complaint .....	2.00
(b)	Every summons to a defendant .....	1.00
(c)	Every summons to a witness .....	1.00
(d)	Every warrant of arrest .....	2.00
(e)	Every search warrant .....	5.00
(f)	Every warrant of distress .....	5.00
(g)	Every declaration of proof under Section 237 of the Magistrate's Code of Procedure .....	1.00.

*[Third Schedule substituted by Act 20/1998]*



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## **FOURTH SCHEDULE**

(Section 247)

### **THE MAGISTRATE'S CODE OF PROCEDURE RULES**

1. **Short title.**

These Rules may be cited as the Magistrate's Code of Procedure Rules.

2. **Interpretation.**

In these Rules, unless the Context otherwise requires,

“Act” means the Magistrate's Code of Procedure Act;

“Court” means a Magistrate's Court;

“prescribed” means prescribed by the Magistrate's Court Fees Rules, or any Rules amending or substituted for the same;

“Schedule” means the Schedule to these Rules.

3. **Register.**

(1) The register to be kept by the Magistrate or his or her clerk in pursuance of section 246 of the Act shall contain such particulars as appear by the form numbered 82 in the Schedule.

(2) A separate register relating to the proceedings of a juvenile court shall be kept and shall contain such particulars as appear in the form numbered 83 in the Schedule.

(3) When a Magistrate convicts a person of an offence he or she shall show clearly by the entries in the register relating to the case of what offence he or she convicts the defendant, and the date of such offence shall be stated in the register.

(4) When further time is allowed for payment of a fine, an entry of the further time allowed shall be made either in the column of the register headed “Time allowed for payment and instalments”, or in a book kept for recording fines for the payment of which time has been allowed, and if the Magistrate directs payments to be made by instalments, an entry should be made as above to that effect, and such entries shall be signed and dated by the Magistrate whenever he or she allows further time or directs payment by instalments.

4. **Plea of Guilty.**

(1) In every case in which a person appears before the Court to answer a charge, information or complaint which the Magistrate has power to deal with summarily, the Magistrate, before he or she convicts such person, shall ask if he or she pleads guilty or admits the truth of the charge, information or complaint; and if he or she does so an entry of the fact shall be made in the register.

(2) Where a Magistrate tries any person summarily in any case in which he or she may be tried summarily only with his or her consent or in which he or she has a right

to claim trial by a jury he or she shall cause to be entered in the register his or her election to be tried summarily.

5. **Recording Dismissals under Probation of Offenders Act, Cap. 4.27.**

When a Magistrate dismisses an information or charge or binds over an offender under the Probation of Offenders Act, Cap. 4.27, the minute of adjudication entered in the register shall be "Dismissed [Bound over] P.O. Act".

6. **Restriction on Part-Payment.**

When a term of imprisonment is imposed by a Magistrate in respect of the non-payment of any sum adjudged to be paid by a conviction or order of a Magistrate, no sum tendered in part-payment of that sum need be accepted unless it is the amount required to secure one day's reduction of the sentence or some multiple thereof, and when a warrant of distress or commitment has been issued, no part payment shall be accepted until the fee, if any, payable for such warrant has been discharged.

7. **Noting Payments on Commitment.**

When payment is made to any person having custody of the defendant, the person receiving it shall forthwith note the receipt thereof on the commitment.

8. **Payment on First Day's Imprisonment.**

Where a term of imprisonment is imposed by a Magistrate in respect of the non-payment of any sum adjudged to be paid by a conviction or order of a Magistrate's court, a person committed to prison or to detention under section 110 of the Act in default of payment shall not be entitled to be discharged upon the first day of his or her imprisonment or detention except upon payment in full of the sum in respect of which the committal took place.

9. **Allocation of Part-Payments.**

In any case where, under section 112 of the Act, a part of any sum adjudged to be paid by a conviction of a Magistrate has been received by a person authorised to receive it and paid over in accordance with the said section of the Act into the Treasury or to the Magistrate or to his or her clerk, the clerk shall apply that sum, firstly towards the payment in full or in part of any costs which the Magistrate may have ordered by the conviction to be paid to the prosecutor or complainant; secondly towards the payment in full or in part of any damages or compensation which the Magistrate may have ordered by the conviction to be paid to the prosecutor or complainant; and thirdly in the manner in which section 244 of the Act directs that the fine shall be applied; and in any case where, under the said section, a part of any sum of money adjudged to be paid by an order of a Magistrate has been received by a person authorised to receive it, and paid over in accordance with that section, the clerk shall apply that sum as directed by the order.

10. **Recognisance Entered into Separately.**

When a defendant has been committed to prison by a Magistrate in default of finding sureties, and the sureties afterwards enter into their recognisance separately from

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the defendant, a certificate in the form numbered 59A in the Schedule shall be sent forthwith by the Magistrate or other person taking their recognisance to the Superintendent or Keeper of the prison that such recognisance has been entered into; and, if the defendant has already entered into his or her recognisance, he or she shall then be released; and if the defendant has not already entered into his or her recognisance, the Keeper shall take his or her recognisance and discharge him or her, if held for that cause and no other.

**11. Certificate as to Conditions of Recognisance.**

When a person appears before a Magistrate, or before any clerk of a Magistrate, or before a Superintendent of Police or any other officer of police or constable in charge of any police station for the purpose of entering into a recognisance in pursuance of section 215 of the Act, before he or she shall be entitled to enter into such recognisance, he or she shall produce, if so required by such Magistrate, clerk of a Magistrate, Superintendent of Police or any other officer of police or constable, a certificate in the form numbered 59B in the Schedule, from the clerk of the Court the Magistrate of which has required the recognisance or fixed the amount thereof showing the condition of such recognisance and the amount in which the principal and sureties are to be bound.

**12. Transmission of Recognisance.**

If a recognisance of either the principal or the sureties is taken separately by a Magistrate or person other than the Magistrate who committed the defendant to prison, the recognisance shall forthwith be forwarded to the Court which committed the defendant.

**13. Mode of Application to vary Order for Sureties.**

An application under section 202 of the Act shall be an application for a summons requiring the complainant to show cause why the order made on his or her complaint shall not be varied.

**14. Form of Security.**

Any security given under the Act by an oral or written acknowledgement shall be in the form of an undertaking, and may be in the appropriate form in the Schedule.

**15. Security Book.**

(1) The Magistrate or his or her clerk shall keep a security book, and shall enter therein, with respect to each security given in relation to any proceedings before the Court, the name and addresses of each person bound, showing whether he or she is bound as principal or as surety, the sum in which each person is bound, the undertaking or condition by which he or she is bound, the date of the security, and the person before whom it is taken.

(2) When any such security is not entered into before the Court, or before the clerk of the Court, the person before whom it is entered into shall make a return of it, showing the above particulars, to the clerk of the Court.

(3) The security book, and any certified extract therefrom, shall be evidence of the several matters hereby required to be entered in the security book in like manner as if the security book were the register.

**16. Notice to Principal of Forfeiture of Security.**

(1) Not less than two clear days before a warrant of distress is issued for a sum due by a principal in pursuance of a forfeited security under the Act, the clerk of the Court issuing the warrant shall cause notice of the forfeiture to be served on the principal.

(2) Service of the notice may be effected either by prepaid letter sent to the address mentioned on the security, or as service of a summons may be effected under the Act.

**17. Particulars of Claim.**

In civil proceedings the particulars of claim shall, unless embodied in the summons, be annexed to and, if so annexed, shall be deemed part of the summons.

**18. Judgment by Confession.**

(1) In all civil proceedings, judgment by confession, or by consent of parties, may be entered at any time, and in every such case a memorandum of such confession or consent, and of the particulars of the judgment to be entered, shall be signed by the party or parties, or their solicitors, in the presence of the Magistrate or Magistrate's clerk, and filed in the Court.

(2) When judgment by confession, or by consent of parties, is entered under this rule, no hearing fee shall be chargeable and the plaintiff shall recover his or her costs of suit according to the prescribed scale of fees, unless otherwise agreed between the parties.

**19. Hearing Fee.**

The prescribed hearing fee shall be paid by the plaintiff, prior to the commencement of the hearing of all civil proceedings where judgment has not been entered by confession, or consent.

**20. Interpreter's Fees.**

(1) In all civil proceedings where evidence in any language, other than English, is introduced during the hearing of the proceedings, by any of the parties or their witnesses, the prescribed court interpreter's fee shall be payable.

(2) Such fee shall be payable by the party to the action in whose interest such evidence may be adduced.

(3) Such fee shall be payable in respect of the services of the official court interpreter only:

Provided that the Magistrate may order costs (not exceeding twenty-four dollars as specified in section 151 of the Act) where the services of special unofficial interpreters are engaged during the hearing of any civil proceedings.

(4) Such fees shall not form part of the personal emoluments of the court interpreter, but shall be paid into the Treasury of the Colony.

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**21. Judgment Summons.**

An order for commitment under section 154 of the Act shall not be made unless a summons in the form numbered 40 in the Schedule (hereinafter called a judgment summons), or, if the judgment debtor has made default in payment of any instalment of a judgment debt payable in pursuance of an order of the Magistrate, a summons in the form numbered 41A in the Schedule (hereinafter called a summons to a defaulting debtor) has been served on the judgment debtor.

**22. Service of Judgment Summons and Summons to Defaulting Debtor.**

A judgment summons or summons to a defaulting debtor shall, whenever it is practicable, be served personally on the judgment debtor or defaulting debtor, as the case may be, but if it is made to appear on oath to the Court that prompt personal service is for any reason impracticable, the Court may make such order for substituted or other service as the Court may think just.

**23. Issue and Proof of Service of Judgment Summons.**

A judgment summons may issue although no execution has been applied for, and its service, where made out of the jurisdiction of the Court issuing the summons, may be proved by affidavit or solemn declaration.

**24. Time of Service.**

A judgment summons or summons to a defaulting debtor shall be served not less than two clear days before the day on which the judgment debtor or defaulting debtor, as the case may be, is required to appear.

**25. Adjournment and Suspension.**

On the hearing of a judgment summons the Magistrate may adjourn the same from time to time either unconditionally or on such conditions as to payment of the judgment debt immediately or at such times as he or she may order, and in the event of his or her making a commitment order may direct the issue of the same to be suspended for such time as he or she shall think fit, but such order of suspension though minuted shall not appear on the face of the order of commitment.

**26. Witnesses on Judgment Summons.**

Any witness may be summoned to prove the means of the judgment debtor whether on the hearing of a judgment summons or on an application for the variation of an order of commitment in the same manner as witnesses are summoned to give evidence on the hearing or a complaint.

**27. Variation of Order.**

(1) Where an order of commitment after proof of means and ability to pay has been made for the payment of a judgment debt and costs, or by instalments and it appears to the satisfaction of the Magistrate that the judgment debtor liable under the order of commitment is unable to pay the sum ordered to be paid at the time or by the instalment ordered, he or she may, on the application of such judgment debtor made on complaint

served on the judgment creditor seven days at least before the hearing of the application, order the amount due and unpaid under the order of commitment to be paid by instalments, or, if already payable by instalments by smaller instalments, and may from time to time vary such order.

(2) In like manner, if it happens to the satisfaction of the Magistrate that the judgment debtor liable under such order of commitment is able to pay the sum ordered to be paid either in one sum or by larger instalments than those ordered he or she may on the application of the judgment creditor made on the like complaint served on the judgment debtor, order the amount due and unpaid to be paid in one sum, or by larger instalments than those previously ordered, and may from time to time vary such order.

**28. Date of Order of Commitment.**

An order of commitment made under section 154 of the Act, shall, on whatever day it is issued, bear the date of the day on which it was made.

**29. Payment of Debt after Commitment.**

When an order for commitment is made the judgment debtor may at any time pay the amount due by him or her (including the costs, if any, of conveying him or her to prison) to the bailiff, or the Superintendent or Keeper of the prison, holding the order, who shall forthwith pay over the sums so received by him or her to the Magistrate or the Magistrate's clerk, or such sums as aforesaid may be paid to the Magistrate or the Magistrate's clerk, who shall in each of the before mentioned cases sign a certificate of the payment.

**30. Release of Judgment Debtor.**

Where the bailiff, or the Superintendent or Keeper of the prison, holding the order receives payment as aforesaid or receives such certificate as aforesaid, the judgment debtor shall be forthwith released by him or her.

**31. Costs of Judgment Creditor in Enforcing Order.**

All costs incurred by the judgment creditor in endeavouring to enforce an order shall, unless the Court shall otherwise order, be deemed to be due in pursuance of the order, as if it were made under section 4 of the Debtors Act, Cap. 5.07.

**32. Relief of Officer of Court, etc., from Duties under Order.**

When an order has been made by a Magistrate for periodical payments of money to be made through an officer of the Court or through any other person or officer, if complaint is made by such officer or other person that the person on whose behalf the money is ordered to be paid has persistently received the payments required under the order direct from the person liable to make the payments, the Magistrate may, upon proof thereof, make an order relieving him or her of his or her duty under the first mentioned order and requiring that payment be made direct:

Provided also that any such relieving order may be made, without formal complaint being laid at the hearing of any application to enforce the first-mentioned order, if both parties are present.

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**33. Certificate of Imprisonment for Children born out of Wedlock Arrears.**

For the purposes of section 126 (2) of the Act, when a person is imprisoned in proceedings for the enforcement of an order in any matter of a child born out of wedlock or of an order enforceable as an order of affiliation, the Superintendent or Keeper of the prison shall, upon his discharge, send to the clerk of the Magistrate issuing the commitment a certificate showing the dates of his reception into prison and discharge therefrom, and also remit therewith any payment received by him or her under the commitment, and the clerk of the Magistrate, if payments under the order have been ordered by the Magistrate to be made through an officer of the Court or other person or officer, shall forward such certificate and any payment so remitted to that officer or person.

**34. Application for Special Case.**

An application to a Magistrate under section 171 of the Act to state a special case shall be made in writing in the form numbered 45A in the Schedule and the case shall be stated within a month after the date of the application, and after the recognisance shall have been entered into.

**35. Drawing up Convictions.**

(1) Formal convictions giving the decisions of the Court shall not be drawn up unless required for an appeal or some other legal purpose.

(2) When it is necessary for such purpose to draw up a conviction the same shall be in one of the forms set forth in the Schedule, unless some other form is prescribed by lawful authority for the particular case.

(3) Upon proper notice being given of appeal against any conviction or order of a Magistrate, or of any motion in the Supreme Court for a writ of mandamus or certiorari in respect of any conviction or order of a Magistrate, and upon payment by the appellant of the appropriate fee and the fee, if any, payable to the Registrar of the Supreme Court, the conviction or order in question shall be drawn up in proper form, and shall be lodged by the clerk of the Magistrate with the Registrar of the Supreme Court, to be filed by him or her among the records for the next sitting of that Court.

(4) Any exhibits which have been put in at the hearing of the case, and which are still in the possession of the Magistrate's Court when such conviction or order is being transmitted to the Registrar of the Supreme Court, shall be forwarded, together with such conviction or order to the said Registrar:

Provided that it shall not be necessary to draw up the conviction or order and file it as aforesaid in any case of an appeal by case stated to the Court of Appeal.

**36. Procedure in Replevin under Section 225 of the Act.**

Where any person desires to replevy any property levied on under a warrant of distress, he or she shall, within the prescribed time, apply to a Magistrate, or a clerk to the Magistrate, in the district in which the property has been seized, for a warrant to replevy, and on such person executing a replevin bond, with such surety or sureties as may be required by the Magistrate, or clerk to the Magistrate, in the district in which the property has been seized, for a warrant to replevy, and on such person executing a replevin bond,

with such surety or sureties as may be required by the Magistrate, or clerk to the Magistrate, for the due prosecution of an action in replevin without delay, and for the return of the goods if such person should fail in such action, the Magistrate, or clerk to the Magistrate, shall issue a warrant to the police officer in whose custody are the goods levied on, directing him or her to restore such goods to such person as aforesaid, and the goods levied on shall then be restored to the person claiming the same.

**37. Miscellaneous Applications to Magistrates.**

When any person is authorised under any Act or other law to appeal to any Magistrate against the decision or order of any local or other authority or other person or body, the procedure, unless otherwise prescribed by the Act or other law, shall be by way of complaint for an order, and the Act shall apply to all such proceedings.

**38. Notice of Conditions of Probation.**

The Notice required under section 3 (3) of the Probation of Offenders Act, shall, before the offender leaves the precincts of the Court, be read over to him or her (by a probation officer if practicable) in the presence of a third person with such explanation as may be thought desirable.

**39. Forms.**

The forms in the Schedule, or forms to the like effect, may, for the purposes of proceedings under the Act, be used, with such variations as circumstances may require.



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**SCHEDULE TO THE RULES**

(Rule 39)

**FORM 1.**

*Complaint without Oath.*

STATE OF ST. CHRISTOPHER AND NEVIS.

In the Magistrate's Court, .....District.

..... *Complainant*

*and*

.....*Defendant.*

The Complaint of .....  
of ..... who comes before me, the undersigned Magistrate, and .....  
complains against ..... of .....  
that the said ..... of .....  
the.....day of .....20....., at  
and the said.....  
prays that the said.....  
may be summoned to answer the said complaint.

*Complainant.*

Made before me this .....  
day of .....20.....

}

.....  
*District Magistrate,*  
*District*

**FORM 1A.**

*Information on Oath.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The.....day of .....20.....

The Information of .....  
of ..... in the said District, who upon oath states that  
of ..... on the.....day of .....20.....at..... in  
the said State of ..... did.....

Taken on oath before me the .....  
day of .....20.....

}

.....  
*District Magistrate,*

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT.....

IN THE MAGISTRATE'S COURT.

(.....)

vs.

INFORMATION ON OATH.

Filed..... 20.....

FORM 2.

*Summons to Defendant.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To.....  
of.....

Complaint has been made this day by .....  
for that you on the..... day of..... 20.....  
at ..... in the State of.....  
did.....

You are therefore hereby summoned to appear before this Court sitting at.....  
..... in the said District on.....  
the..... day of..... 20..... at the.....  
hour of..... in the.....  
to answer to the said complaint.

Dated the..... day of..... 20.....

.....  
*District Magistrate.*

(SEAL)

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FORM 3.

*Certificate of Refusal to issue a Summons.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

I hereby certify that I refuse to issue a summons against .....  
.....of.....  
on the complaint of....., of.....,  
which has been reduced into writing and is as follows (here set out the allegations made in the  
complaint).

Dated this ..... day of .....20 .....

(SIGNED).....

*District Magistrate.*

\_\_\_\_\_

FORM 4.

*Warrant in the First Instance.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

TO EACH AND ALL OF THE PEACE OFFICERS OF THE STATE.

Information on oath has been laid this day, by .....  
.....of.....that of.....hereinafter called the  
defendant on the .....day of .....20 ....., at in the State of  
.....did .....

You are therefore hereby commanded to bring the defendant before this Court sitting at .....  
.....forthwith to answer to the said information.

Given under my hand this ..... day of .....20 .....

.....

*District Magistrate.*

(SEAL)

\_\_\_\_\_

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT.....

IN THE MAGISTRATE'S COURT.

(.....)

vs.

WARRANT TO ARREST.

Issued.....20.....

FORM 4A.

Information for Search Warrant.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT.....

IN THE MAGISTRATE'S COURT.

The information of..... of..... in the said District,..... taken this..... day of.....20....., before the undersigned District Magistrate, for District..... in the said State of..... who saith that the following goods of him or her the said..... to wit,..... were on the..... day of.....20....., stolen from and out of the dwelling house of the said..... situate at..... in the parish of..... and State aforesaid: And that he or she, this informant, hath probable cause to suspect, and doth suspect, that the said goods, or part thereof, are concealed in the dwelling-house or premises in the occupation of..... situate at..... in the Parish of.....in the State aforesaid.

Sworn before me the ..... } day of ..... 20..... }

..... District Magistrate.

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STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(.....)

vs.

INFORMATION.

Filed ..... 20.....

FORM 5.

*Notice to Prosecutor of day on which a Prisoner will be brought up.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To.....of.....

Take notice that.....  
of ....., hereinafter called the defendant, has been  
apprehended and is ordered to be brought up before this Court .....  
sitting at....., on the ..... day of.....  
..... 20 ....., at the hour of ..... in  
the..... noon.

Dated this ..... day of ..... 20 .....

(SIGNED).....

*District Magistrate.*

FORM 6.

Search Warrant.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

TO EACH AND ALL OF THE PEACE OFFICERS OF THE STATE.

Evidence on oath has been given this ..... day of ..... 20 ....., by ....., that there is reasonable ..... cause to believe that certain property, to wit, ..... alleged to have been ....., is on certain ..... premises, to wit .....

You are therefore hereby commanded, with proper assistance, to enter the said premises, by force, and breaking doors, if necessary, and to search the same, and if such property as aforesaid, or any part thereof, be found therein, to bring the same, and the person or persons in whose possession the said premises are, before this Court to be dealt with as the law directs.

Given under my hand this ..... day of ..... 20 .....

(SIGNED) .....

District Magistrate. (SEAL)

FORM 7.

Notice to Parent or Guardian of Child charged with an Indictable offence.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To ..... of ..... has been charged with ....., and has been remanded until the sitting of this Court, to be holden at ....., on the ..... day of ....., 20 ....., at the hour of ..... in the ..... noon, and it has been alleged that you are his or her parent (or guardian).

If you desire to be present at the hearing of the charge you must attend before this Court on that day and hour.

Dated this ..... day of ....., 20 .....

(SIGNED) .....

District Magistrate.

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FORM 7A.

Notice to Parent or Guardian of a Child to appear and be heard before order is made against such Parent or Guardian.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To.....of.....

Complaint (or information) has been laid this day by ..... for that A.B. .... being a child or young person under 16, on the ..... day of ..... 20, ..... at ..... in the State of ..... did .....

And upon being informed that you C.D. .... are the parent or guardian of the said A.B. .... you are hereby notified to appear before this Court sitting at ..... in the said District on ..... the ..... day of 20....., at the hour of ..... in the morning to show cause why in the event of an order for the payment of a fine, damages or costs being made against the said A.B. .... you should not be ordered to pay the same.

Dated this ..... day of ..... 20 .....

(SIGNED).....

District Magistrate.

FORM 7B.

Order on Parent or Guardian to pay fine, damages or costs.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

Whereas A.B. .... hereinafter called the defendant, being a child or young person within the meaning of the Magistrate's Code of Procedure Act and the Juvenile Act, has been this day charged for that he or she on the ..... day of ..... 20 ....., at ..... in the State of ..... did .....

And whereas the Court is of opinion that the charge is proved.

It is ordered that C.D. .... the parent (guardian) of the defendant do pay the sum of ..... as (a fine) or (damages) and the sum of ..... for costs (by instalments of ..... for every ..... days, the first instalment to be paid) forthwith (or on the day of ..... 20..... ).

And in default of payment it is ordered that (the sums due under this order be levied by distress and sale of the said parent's (guardian's) goods, and in default of sufficient distress that) the

said parent (guardian) be imprisoned in Her Majesty's prison at and kept there for the space of..... unless the sums (and all costs and charges of the said distress and) commitment and his or her conveyance to the said prison be sooner paid. (Where security for good behaviour is required, add:

And it is further ordered that the said C.D.....do forthwith to the satisfaction of (this Court) give security in the sum of.....for the good behaviour of the said defendant for the term of..... next ensuing).

Given under my hand this..... day of..... 20.....

(SIGNED) .....

District Magistrate.

FORM 8.

Deposition.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

THE DEPOSITION OF .....

taken on oath this ..... day of..... 20..... in the presence and hearing of..... who ..... charged before me ..... Esquire, the undersigned District Magistrate, with having committed an offence under ..... section ..... of..... of ..... which deponent says as follows:

.....  
.....  
.....

Sworn before me ..... this..... date of..... 20.....

District Magistrate.



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FORM 9.

Statement of Accused.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

stand charged before the undersigned..... Magistrate for District..... this..... day of..... 20....., for that..... the said..... on the..... day of..... 20....., at..... in the State of..... did..... and the said charge being read to the said..... and the witnesses for the prosecution, namely,..... being severally examined in..... presence, the said..... is now addressed by me as follows:

.....  
.....  
.....  
.....

“HAVING HEARD THE EVIDENCE, do you wish to say anything in answer to the charge? You are not obliged to do so unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence at your trial. AND I GIVE YOU CLEARLY TO UNDERSTAND that you have nothing to hope from any promise of favour, and nothing to fear from any threat, that may have been held out to you to induce you to make any admission or confession of your guilt; but whatever you now say may be given in evidence upon your trial, notwithstanding such promise or threat.”

WHEREUPON the said..... saith as follows:

Taken before me at ..... }  
the day and year above mentioned.

.....  
District Magistrate.

\_\_\_\_\_

FORM 10.

Committal for Trial.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

of.....
who ..... been charged before me.....
with an offence under section ..... of.....
the following witnesses having been examined before me, namely,.....
is/are committed for trial at the Circuit Court to be held in this Circuit in the month of.....next.

Given under my hand this.....day of..... 20.....

District Magistrate.
(SEAL)

FORM 11.

Warrant to detain for trial.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the Peace Officers of the State, and to the Keeper of the prison at.....
in the State.
..... of.....
having been committed to take h ..... to trial before the Circuit Court to be
holden at..... in the State of....., in the month
of..... 20..... on a charge of having committed an
offence against section..... of..... of.....

You the said Peace Officers, are hereby commanded to take the said.....
and convey h.....
to the said Prison, and deliver h..... to the Keeper thereof together with this
warrant;

And you, the said Keeper of the said prison, are hereby commanded to receive the said
..... into your
custody and keep h.....safely till the holding of the Circuit Court at.....
.....aforesaid in the month of.....aforesaid unless he or she be sooner
released by a warrant of deliverance in that behalf, and on that day to bring h..... before the said
Court and to keep h..... in safe custody until the said Court
shall make further order.

Given under my hand this.....day of..... 20.....

District Magistrate.
(SEAL)

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STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(.....)

*Regina*

*Versus*

.....

=====

WARRANT TO DETAIN FOR TRIAL.

=====

\_\_\_\_\_

FORM 12.

*Warrant to take Prisoner before another District Magistrate for Further Examination.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

TO EACH AND ALL THE PEACE OFFICERS OF THE STATE.

You are hereby commanded to take .....  
before the Magistrate for District ..... together with the information  
(or complaint), depositions and recognisances laid (made) and taken before me in the matter of  
v. .... and annexed hereto .....

Given under my hand this ..... day of ..... 20 .....

(SIGNED).....

*District Magistrate.*  
(SEAL)

\_\_\_\_\_

FORM 13.

Certificate of the Receipt of a Prisoner.

I hereby certify that I have this day received from .....
....., Peace Officer of the State,
....., an accused person, together with the warrant
and all documents relating to the charge against the said.....
..... (or who (set forth the state of the prisoner
when received into charge if the receipt is by the Keeper of the prison)
.....).

Dated this..... day of ..... 20.....

(SIGNED) .....

District Magistrate (District ..... )

or

Keeper of the Prison at.....

FORM 14.

Warrant of Deliverance.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To the Keeper of Her Majesty's prison at.....

Whereas..... of.....
who has been charged with having committed an offence under section.....
of Chapter ..... of.....
and is detained by you under a warrant dated the ..... day of
..... 20....., has this day been admitted to bail:

This is to command you to discharge the said .....
from custody unless you are ordered to detain him or her by some other lawful warrant.

Give under my hand this..... day of..... 20.....

District Magistrate.....

District (.....).

(SEAL)

Revision Date: 31 Dec 2009

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

(.....)

IN THE MAGISTRATE'S COURT.

*Regina*

vs.

.....

WARRANT OF DELIVERANCE

Dated the ..... day of ..... 20.....

\_\_\_\_\_

FORM 15.

*Notice on Application for Bail.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To the Director of Public Prosecutions, or the officer in charge of the police in the State of St. Christopher and Nevis, or to the Magistrate or Coroner for District .....

This is to give you notice that application will be made on the ..... day of ..... 20 ....., at the hour of ..... in the.....noon, to the Honourable Mr. Justice ..... for an order that..... be admitted to bail, who is charged with having committed an offence under section..... of Chapter..... of ..... of .....

Dated this ..... day of ..... 20 .....

(SIGNED).....

\_\_\_\_\_

FORM 16.

Conviction.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

..... the ..... day of .....
..... two thousand .....
..... of .....
..... in the said District
hereinafter called the defendant, is this day CONVICTED at the Magistrate's Court for District..... ,
aforesaid, sitting at .....
..... in the
of ..... in the
said District, before the undersigned .....
....., Esquire, District Magistrate in and for the said District, of
having committed an offence under section .....
of Chapter .....
of ..... that is to say, for that he or she the defendant on the
..... day of .....
..... two thousand and .....
at ..... within the said District,
.....
.....

AND IT IS HEREBY ADJUDGED that the defendant for .....
said offence be imprisoned in Her Majesty's prison at .....
..... and there kept .....
for the space of .....
(or do pay the sum of \$ ..... ), and
do also pay the sum of \$ ..... (for
compensation and \$ ..... ) for costs
(by instalments of \$ ..... for every
..... days, the first instalment to be paid forthwith, or on the ..... day of
..... 20..... ).

And in default of payment it is ordered that (the sums due under this adjudication be levied by
distress and sale of the defendant's goods, and, in default of sufficient distress, that) the defendant be
imprisoned in Her Majesty's prison at .....
and there kept (to hard labour) for the space of .....
..... (commencing at the termination of the imprisonment before adjudged),
unless the said sums (and all costs and charges of the said (distress and) commitment and of his or
her conveyance to the said prison) be sooner paid.

.....
District Magistrate.

.....
District.
(SEAL)

Revision Date: 31 Dec 2009

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

(.....)

IN THE MAGISTRATE'S COURT.

CONVICTION of.....

for.....

Dated the .....day of ..... 20.....

FORM 17.

*Endorsement where Security for Payment is Permitted.*

It is ordered that the defendant be at liberty to give, to the satisfaction of .....  
(this Court), security in the sum of \$ .....  
with sureties in the sum of \$ ..... (each), for the due  
payment of the said sums as adjudged.

FORM 18.

*Conviction of Adult for an Indictable offence.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

.....the .....day of .....20.....  
of .....  
in the said District ..... hereinafter called  
the defendant being an adult within the meaning of the Magistrate's Code of Procedure Act, and  
having consented to be dealt with summarily is this day CONVICTED at the Magistrate's Court for  
District....., aforesaid sitting  
at..... in the  
of .....in the said District, before the undersigned  
..... Esquire,  
District Magistrate in and for the said District, of having committed an offence under section.....of  
Chapter.....  
of ..... that is to say, for that he or she the defendant  
on the.....day of ..... 20..... at  
within the said District,

AND IT IS HEREBY ADJUDGED that the defendant for said offence be imprisoned in Her Majesty's prison at..... and there kept..... for the space of..... (or do pay the sum of \$ .....,) and do also pay the sum of \$..... (for compensation and \$.....) for cost..... (by instalments of \$..... for every..... days, ..... the first instalment to be paid forthwith, or on the .....day of ..... 20.....).

And in default of payment it is ordered that (the sums due under this adjudication be levied by distress and sale of the defendant's goods, and, default of sufficient distress, that) the defendant be imprisoned in Her Majesty's) prison at....., and there kept to hard labour) for the space of.....(commencing at the termination of the imprisonment before adjudged), unless the said sums (and all costs and charges of the said (distress and) commitment and of his or her conveyance to the said prison) be sooner paid.

(SIGNED) .....

*District Magistrate.*  
(SEAL)

FORM 18A.

*Conviction of Child or Young Person for Indictable Offence.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

..... the..... day of ..... 20..... in the said District.....hereinafter called the defendant being a child (or young person) within the meaning of the Magistrate's Code of Procedure Act and the Juvenile Act, and having been charged with committing an offence under section of Chapter ..... of ....., that is to say, for that he or she, the defendant on the ..... day of ..... 20 at .....within the said District

AND IT IS HEREBY ADJUDGED that the defendant for the said offence be imprisoned in Her Majesty's prison at..... and there kept..... for the space of ..... (or do pay the sum of \$ .....,) and do also pay the sum of \$..... (for compensation and \$.....) for costs (by instalments of \$..... for every..... days, the first instalment to be paid forthwith, or on the day of ..... 20.....).

And in default of payment it is ordered that (the sums due under this adjudication be levied by distress and sale of the defendant's goods, and, in default of sufficient distress, that) the defendant be imprisoned in Her Majesty's prison at ....., and there kept (to hard labour) for the space of.....(commencing at the termination of the imprisonment before adjudged), unless the said sums (and all costs and charges of the said (distress and) commitment and of his or her conveyance to the said prison) be sooner paid.

(SIGNED) .....

*District Magistrate.*  
(SEAL)



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FORM 19.

*Conviction with Security.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE’S COURT.

The ..... day of ..... 20 .....  
....., hereinafter called the defendant,  
is this day convicted of an offence under section ..... of Chapter  
..... of .....

But the Court being of opinion that the said offence was of so trifling a nature that it is  
inexpedient to inflict any (or other than a nominal) punishment, and the defendant having given  
security to appear for sentence when called upon (or to be of good behaviour), he or she is  
discharged.

(If costs are ordered, add): And it is hereby ordered that the defendant.....  
pay to....., the complainant, the sum of  
\$ ..... for costs forthwith (or on the ..... day  
of ..... 20 .....

And in default of payment, it is ordered that the sum due be levied by distress and sale of the  
defendant’s goods and in default of sufficient distress, that the defendant be imprisoned in Her  
Majesty’s prison at ....., and there kept (to hard labour) for the space of .....,  
unless the said sum (and all costs and charges of the (said distress and) commitment and of his or her  
conveyance to the said prison) be sooner paid.

(SIGNED).....

*District Magistrate.*  
(SEAL)

FORM 19A.

*Order of Dismissal.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE’S COURT.

A.B.,..... hereinafter called the defendant (being an adult or juvenile, or  
young person, or child within the meaning of the Magistrate’s Code of Procedure Act and the  
Juvenile Act), is charged for that he/she on the ..... day of ..... 20 ....., at .....  
in the said district did ..... (and the defendant having consented  
to be dealt with summarily) or (the parent or guardian of the defendant not objecting to the defendant  
being dealt with summarily), and the Court thinking that the charge is proved, but being of opinion  
that it is inexpedient to inflict any punishment:

It is therefore ordered that the information (or charge) be dismissed:

*(Add if costs are ordered):* And it is ordered that the defendant do pay to ..... the sum of \$ .....as damages for injury (or compensation for loss); and do further pay .....to the clerk of the said Court the sum of \$.....for costs (by instalments of.....for every ..... days, the first instalment to be paid) forthwith (or on the ..... day of.....), and, in default of payment it is ordered that (the said sums be levied by distress and sale of the defendant's goods; and in default of sufficient distress, that) the defendant be imprisoned in Her Majesty's prison at..... (or detained in police custody at .....) for the space of..... unless the said sums (and all costs and charges of the (said distress and) commitment) be sooner paid.

*Magistrate* .....

*District* .....

**FORM 19B.**

*Order of Discharge on Recognisance.*

**STATE OF ST. CHRISTOPHER AND NEVIS.**

DISTRICT .....

IN THE MAGISTRATE'S COURT.

A.B., ..... hereinafter called the defendant (being an adult or juvenile or a young person, or a child within the meaning of the Magistrate's Code of Procedure Act and the Juvenile Act), is charged for that he/she, on the .....day of....., at ..... in the State did..... and (the defendant having consented to be dealt with summarily) *or* (the parent or guardian of the defendant not objecting to the defendant being dealt with summarily and) the Court thinking that the charge is proved, but being of opinion that it is expedient to release the defendant on probation):

It is therefore ordered that the defendant be discharged conditionally on his/her entering into a recognisance in the sum of \$ ..... with .....surety in the sum of \$ ..... (each), subject to the following conditions:

1. That he/she be of good behaviour and appear before the Court for conviction and sentence when called on at any time during the period of .....now next ensuing;
2. That he/she do not associate with;
3. That he/she do not frequent;
4. That he/she do lead an honest and industrious life;
5. That he/she do abstain from intoxicating liquor;
6. That he/she do reside at;
7. *(Any special condition).*

*(If costs are ordered, add):* And it is further ordered that the defendant do pay to..... the sum of \$.....as damages for injury (or compensation for loss); and do further pay to the clerk of the said Court the sum of \$ .....for costs (by

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instalments of .....for every ..... days, the first instalment to be paid) forthwith (or on the ..... day of .....), and, in default of payment it is ordered that (the said sums be levied by distress and sale of the defendant's goods; and in default of sufficient distress, that) the defendant be imprisoned in Her Majesty's prison at ..... (or detained in police custody at ..... ) for the space of ..... unless the said sums (and all costs and charges of the (said distress and) commitment be sooner paid.

Magistrate.....

District.....

FORM 19C.

Order of Discharge on Probation.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

A.B.,..... hereinafter called the defendant (being an adult or a juvenile or a young person, or a child within the meaning of the Magistrate's Code of Procedure Act and the Juvenile Act), is charged for that he/she, on the day of ....., at ..... in the State did.....and (the defendant having consented to be dealt with summarily) or (the parent or guardian of the defendant not objecting to the defendant being dealt with summarily and) the Court thinking that the charge is proved, but being of opinion that it is expedient to release the defendant on probation:

It is therefore ordered that the defendant be discharged conditionally on his/her entering into a recognisance in the sum of \$ .....with surety in the sum of \$ ..... (each), subject to the following conditions:

1. That he/she be of good behaviour and appear before the Court for conviction and sentence when called on at any time during the period of..... now next ensuing;
2. That he/she do not associate with;
3. That he/she do not frequent;
4. That he/she do lead an honest and industrious life;
5. That he/she do abstain from intoxicating liquor;
6. That he/she do reside at.....;
7. That during the said period the defendant be under the supervision of ..... (hereinafter called the Supervisor), and
  - (a) for the purpose of securing such supervision, that the defendant receive at his/her own home visits from the said Supervisor weekly, or at such other intervals as the Supervisor may think fit; and, if so required by the Supervisor, attend at his/her home for the purpose of such visits at times fixed by the Supervisor; and answer truly all questions put to him/her by the Supervisor with regard to his/her conduct, employment, or residence;
  - (b) and report forthwith to the Supervisor any change of his/her residence or place of employment; and

8. (Any special condition).

(If costs are ordered, add): And it is further ordered that the defendant do pay to..... the sum of \$ .....as damages for injury (or compensation for loss); and do further pay to the clerk of the said Court the sum of \$ ..... for costs (by instalments of ..... for every ..... days, the first instalment to be paid) forthwith (or on the.....day of .....), and, in default of payment it is ordered that (the said sums be levied by distress and sale of the defendant's goods; and in default of sufficient distress, that) the defendant be imprisoned in Her Majesty's prison at..... (or detained in police custody at ..... ) for the space of..... unless the said sums (and all costs and charges of the (said distress and) commitment be sooner paid.

*Magistrate* .....

*District* .....

**FORM 19D.**

*Recognisance.*

**STATE OF ST. CHRISTOPHER AND NEVIS.**

**DISTRICT** .....

**IN THE MAGISTRATE'S COURT.**

The under-mentioned persons severally acknowledge themselves to owe to the Crown the several sums following, namely:

.....of ....., as principal, the sum of \$ ....., and.....of ....., and .....of ....., as surety the sum of \$..... (each) to be levied on their several goods, lands, and tenements if the said principal fail in the condition hereon endorsed.

(SIGNED *where not taken orally*)

A.B.  
G.H.  
J.K.

Taken (orally) before me this..... day of..... 20.....

*Magistrate* .....

**CONDITION.**

The condition of the above recognisance is such that if the above-bounded principal shall be of good behaviour and appear before the Magistrate's Court sitting at.....for conviction and sentence when called on at any time during the period of .....now next ensuing, and shall not associate with.....nor frequent..... and shall lead an honest industrious life, and abstain from intoxicating liquor, and reside at ....., and shall (insert any special condition) ..... (and furthermore during the said period shall be under the supervision of ..... (hereinafter called the Supervisor), and, for the purpose of securing such supervision, shall receive at his/her own home visits from the said Supervisor weekly, or at such other intervals as the Supervisor may think fit, and shall, if so required by the Supervisor, attend at his/her own home for the purpose of

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such visits at times fixed by the Supervisor, and shall answer truly all questions put to him/her by the Supervisor with regard to his/her conduct, employment, or residence, and shall report forthwith to the Supervisor any change of his/her residence or place of employment); then the said recognisance shall be void, but otherwise shall remain in full force.

FORM 19E.

Notice to Defendant of Terms of Recognisance on Probation.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

Take notice that you....., are bound for the period of .....years in the sum of \$.....(and .....and....., your surety in the sum of \$..... (each), by recognisance entered into this day before the said Court, of which the following are the conditions:

1. That you be of good behaviour and appear at this Court for conviction and sentence when called on;
2. That you do not associate with;
3. That you do not frequent;
4. That you lead an honest and industrious life;
5. That you abstain from intoxicating liquor;
6. That you reside at;
7. That you be under the supervision of.....

(hereinafter called the Supervisor and observe the following conditions for securing such supervision, namely:

- (a) that you receive at your own home visits from the Supervisor weekly, or at such other intervals as the Supervisor may think fit and, if so required by the Supervisor, attend at your home for the purpose of such visits at times fixed by the Supervisor; and answer truly all questions put to you by the Supervisor with regard to your conduct, employment, or residence; and
- (b) that you report forthwith to the Supervisor any change of your residence or place of employment; and

8. (Any special condition).

If you fail to observe any of the conditions of your recognisance you (and your surety) will thereby forfeit the abovementioned sums, and you will further be liable to be apprehended and brought before the Court, and to be convicted and sentenced for the offence which was this..... proved against you.

Dated the.....day of .....20 .....

Magistrate.....

District.....

FORM 19F.

*Order by Endorsement Substituting a New Supervisor.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The above-named ..... having been relieved of his or her duties as Supervisor (or having died), the aforesaid Court doth hereby substitute..... for ..... the ..... said..... to perform the duties of Supervisor under the said order.

*Magistrate* .....

\_\_\_\_\_

FORM 19G.

*Notice to Defendant of Substitution of New Supervisor.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

Take notice that ..... has been substituted by (or with the approval of) the aforesaid Court to perform the duties of Supervisor in your case in place of ..... , and that the name of the said.....is substituted for that of the said as from this date wherever the name of the said .....occurs in the order made by the aforesaid Court in your case on the ..... day of..... 20..... , and in the recognisance entered into by you thereupon.

Dated the ..... day of ..... 20.....

*Magistrate* .....

\_\_\_\_\_

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FORM 19H.

*Summons to Defendant on Application to Vary Conditions of Recognisance.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To ..... A. B.

You are hereby summoned to appear before the Magistrate's Court sitting at.....  
on..... the ..... day of ..... 20, at the hour of.....  
in the..... noon, on the hearing of an application by ..... Supervisor, to vary the  
terms or conditions of the recognisance entered into by you (and ..... and .....  
as your surety) before the said Court, on the ..... day of....., under the  
Probation of Offenders Act.

Dated the.....day of .....20 .....

Magistrate.....

\_\_\_\_\_

FORM 19J.

*Notice of Discharge or Variation of Conditions of Recognisance of Probationer.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To .....of .....

Take notice that (the conditions of) the recognisance entered into by you .....  
(and ..... and ....., as your surety  
.....) before the Magistrate's Court sitting at..... on  
the..... day of .....20 ....., have (or has) this  
day, upon the application of ..... Supervisor, been  
(discharged) or varied by the said Court, (and that the following are now the conditions to which you  
are subject under the said recognisance):

If you fail to observe any of the conditions of your recognisance, you and your (present)  
surety..... will thereby forfeit the abovementioned sums, and you will  
further be liable to be apprehended and brought before this Court, and be convicted and sentenced for  
the offence proved to the Court when the probation order was made.

Dated the.....day of .....20 .....

Magistrate.....

\_\_\_\_\_

FORM 19K.

Information for Breach of Recognisance.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The information of ..... , who upon oath (or affirmation) states:

A.B., ..... on the ..... day of.....20 ....., by a recognisance entered into by him or her (with .....and.....as surety ..... ) under the Probation of Offenders Act, was bound to appear before this Court for conviction and sentence when called on at any time during the period of..... years, and was further bound by the said recognisance (here state one condition which is broken).

And the said A.B. did fail on the ..... day of..... 20 ....., to observe the said last-named condition (and divers other conditions) of his or her recognisance, in as much as

Taken and sworn (or affirmed) before me.

Magistrate .....

FORM 19M.

Summons for Breach of Recognisance.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To ..... A.B.,

Information on oath (or affirmation) has been laid this day by..... Supervisor, for that you on the.....day of....., before the under-mentioned Magistrate's Court, were bound by a recognisance entered into by you under the Probation of Offenders Act, to appear before the said Court for conviction and sentence when called on at any time during the period of..... years, and were further bound by the said recognisance .....and that you did fail on the ..... day of..... 20 ....., to observe the last-named condition (and divers other conditions) of your said recognisance.

You are therefore hereby summoned to appear before the Magistrate's Court sitting at ..... on the ..... day of ..... at the hour of ..... in the..... noon, to answer to the said information.

Dated the ..... day of ..... 20 .....

Magistrate .....



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FORM 19N.

Warrant for Breach of Recognisance.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the constables of .....  
Information on oath (or affirmation) has been laid this day (or on the.....  
..... day of ..... ) by  
..... that A.B., hereinafter called the defendant, having on the  
..... day of ..... , before the  
Magistrate's Court sitting at .....  
entered into a recognisance under the Probation of Offenders Act, by which he/she was bound to  
appear before the said Court for conviction and sentence when called on at any time during the  
period of ..... years, and further to .....  
did, on the..... day of ..... 20..... , fail to observe the last-named condition  
(and divers other conditions) of his/her said recognisance:

.....  
.....  
.....  
.....

You are therefore hereby commanded to bring the said defendant before the Magistrate's  
Court sitting at ..... forthwith, to answer to the said information.

Dated the..... day of ..... 20 .....

Magistrate.....

FORM 19P.

Conviction After Probation.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

A.B., ..... hereinafter called the defendant (being an adult or a juvenile or  
a young person, or a child within the meaning of the Magistrate's Code of Procedure Act and the  
Juvenile Act), was on the ..... day of ..... charged for  
that he/she on the..... day of ..... in the said district  
did .....

.....  
.....  
.....  
.....

And (the defendant having consented to be dealt with summarily), or (the parent or guardian  
of the defendant not objecting to the defendant being dealt with summarily and) the Court thought  
the charge was proved, but, pursuant to the Probation of Offenders Act, did make an order whereby

the defendant was discharged conditionally on entering into a recognisance to be of good behaviour and to appear for conviction and sentence for the said offence when called upon at any time during the period of..... from the date of such order.

And this day the defendant has been brought before the said Court, the Court was satisfied that the defendant had failed to observe certain conditions of the said recognisance.

The defendant is therefore this day convicted of the first mentioned offence, and it is adjudged that the defendant for such offence (as in other convictions).

FORM 20.

Order for Payment of a Sum of Money on Complaint.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The..... day of ..... 20..... having made a complaint that,..... hereinafter called the defendant, on the..... day of ..... 20....., at ....., did.....

On hearing the said complaint, it is ordered that the defendant pay to the said ..... the sum of \$ ..... and also the sum of \$ ..... for costs (by instalments of \$ ..... for every ..... days, the first instalment to be paid) forthwith (or on the ..... day of ..... 20.....).

And in default of payment, it is ordered that (the said sums be levied by distress and sale of the defendant's goods, and in default of sufficient distress, that) the defendant be imprisoned in Her Majesty's prison at....., and there kept (to hard labour) for the space of ..... , unless the said sums (and all costs and charges of the (said distress and) commitment and of his or her conveyance to the said prison) be sooner paid.

(SIGNED) .....

District Magistrate.

(SEAL)

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FORM 21.

Order for other Matters.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The .....day of .....20 .....  
..... having made a complaint that .....hereinafter called the  
defendant on the .....day of .....20 .....  
at.....  
did .....

On hearing the said complaint, it is ordered that the defendant do .....  
.....  
.....  
.....

*(If imprisonment is ordered, add: And it is adjudged that if the defendant neglects or refuses to obey this order, he or she be imprisoned in Her Majesty's prison at....., and there kept (to hard labour) for the space of..... (or unless the said order be sooner obeyed.)*

*(If costs are ordered, add: And it is ordered that the defendant pay to the said..... the sum of \$.....for costs (by instalments of \$ ..... for every..... days, the first instalment to be paid) forthwith (or on the.....day of .....20 .....).*

And in default of payment, it is ordered that the sums due be levied by distress and sale of the defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the said prison, and there kept (to hard labour) for the space of....., commencing at the termination of the imprisonment before adjudged, unless the said sum (and all costs and charges of the (said distress and) commitment, and of his or her conveyance to the said prison) be sooner paid.

(SIGNED).....

District Magistrate.

(SEAL)

\_\_\_\_\_

FORM 22.

Order of Dismissal.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .

IN THE MAGISTRATE'S COURT.

The..... day of ..... 20 .....

Information (or complaint) having been laid (or made) by ..... against ..... hereinafter called the defendant, charging him or her with having committed an offence on the ..... day of ..... 20 ..... at ..... , under section ..... of Chapter ..... of .....

This Court having heard and determined the said information (or complaint) doth dismiss the same. (But doth order the defendant to pay to the informant (or complainant) the sum of \$ ..... , for damages forthwith (or on the..... day of ..... 20 .....)).

(If costs are ordered, add: And it is hereby ordered that the informant (or complainant) pay to the defendant the sum of \$ .....for costs forthwith (or on the ..... day of ..... 20 .....)).

And in default of payment, it is ordered that the sums due be levied by distress and sale of the informant's (or complainant's) goods, and in default of sufficient distress that the informant (or complainant) be imprisoned in Her Majesty's prison at..... , and there kept (to hard labour) for the space of..... , unless the said sums (and all costs and charges of the (said distress and) commitment and of his or her conveyance to the said prison) be sooner paid.

(SIGNED) .....

District Magistrate.

(SEAL)

\_\_\_\_\_

Revision Date: 31 Dec 2009

FORM 23.

Certificate of Dismissal.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

I hereby certify that a charge made against of ..... , for that he or she on the ..... day of ..... 20 ..... , at ..... did commit an offence under section ..... of Chapter ..... of ..... was this day heard and determined by me, and dismissed.

Dated this ..... day of ..... 20 .....

District Magistrate.

FORM 24.

Commitment for Default.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the Peace Officers of the State, and to the Keeper of Her Majesty's Prison at ..... in the State of St. Christopher and Nevis, hereinafter called the defendant, having been ..... on the ..... day of ..... 20 ..... , ordered to pay the sum of \$ ..... and the further sum of \$ ..... for costs under section ..... of ..... of ..... ; and default having been made in payment IT IS ORDERED that the defendant be imprisoned in Her Majesty's Prison aforesaid, and kept ..... for the space of ..... unless the said sums and all costs and charges of ..... commitment and of ..... conveyance to the said prison be sooner paid.

And you the said Peace Officers, are hereby commanded to take the defendant and convey .... to the said prison, and there deliver ..... to the said Keeper thereof, together with this warrant. And you the Keeper of the said prison to receive the defendant into your custody and keep ..... to ..... for the space of ..... unless the said sums and all charges of ..... commitment and of ..... conveyance to the said prison be sooner paid.

Given under my hand this ..... day of ..... 20 .....

District Magistrate .....

District.....

(Seal)

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

WARRANT TO COMMIT.

Fine	.....	\$
Costs	.....	\$
Compensation	.....	\$
Costs of Commitment, etc.	.....	\$
	Total.	\$

FORM 25.

Commitment pending Return to Warrant of Distress.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the Peace Officers of the State, and to the Keeper of Her Majesty's Prison at ....., hereinafter called the defendant, was this day (or on the ..... day of ..... 20.....), before this Court .....sitting at....., convicted of an offence against section.....of Chapter .....of..... (or ordered), (reciting order) :

.....

.....

.....

And default having been made in payment, a warrant of distress was issued, but no return has been made thereto:

You, the said Peace Officers, are hereby commanded to convey the defendant to the said prison, and there deliver him or her to the Keeper thereof, together with this warrant. And you, the Keeper of the said prison, to receive the defendant into your custody and keep him or her until the ..... day of ..... 20....., and on that day to convey him or her before this Court aforesaid, at the hour of .....in the..... noon (unless he or she previously enters into a recognisance in the sum of \$....., with

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surety..... in the sum of \$ ..... (each), conditioned for his or her  
appearance on that day, or pays the sum of \$ ....., being the amount payable under such warrant).

Given under my hand this ..... day of .....20 .....

(SIGNED).....

*District Magistrate.*

(SEAL)

FORM 26.

*Commitment on Sentence of Imprisonment only.*

No.....of 20 .....

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the Peace Officers of the State, and to the Keeper of Her Majesty's Prison  
at..... in the State.  
..... hereinafter called  
the defendant, has been this day before this Court convicted of an offence under section .....  
.....of.....of

You, the said Peace Officers, are hereby commanded to convey the defendant to the said  
prison, and there deliver ..... to the Keeper thereof together with this warrant.  
And you the Keeper of the said prison to receive the defendant into your custody, and keep .....  
.....to ..... for the space of

Given under my hand this ..... day of .....20 .....

*District Magistrate.*

(SEAL)

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

WARRANT TO COMMIT.

TERM.

FORM 27.

*Notice to Attach a Debt.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To ..... of .....

It having been alleged that you are indebted to ..... of ..... in the sum of \$ ..... , and the said ..... having been ordered by this Court to pay a fine of \$ ..... , and costs \$ ..... , in all the sum of \$ ..... (or as the case may be): This is to command you to appear before this Court sitting at ..... , on the ..... day of ..... 20 ..... , at the hour of ..... in the ..... noon, to show cause why you should not pay to this Court so much of the said sum due by you to the said ..... as is sufficient to satisfy the said sum of \$ ..... payable by the said ..... as aforesaid. And you are hereby further commanded not to pay over such sum of \$ ..... (or so much of the said sum of \$ ..... as amounts to the said sum of \$ ..... ) to any person until this Court shall further order.

Dated this..... day of ..... 20 .....

(SIGNED) .....

*District Magistrate.*

FORM 28.

*Order on Attachment of a Debt.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

..... of ..... , having been ordered to pay a fine of \$ ..... , and \$ ..... costs, and it being found that ..... owes to the said ..... the sum of \$ ..... , and the said ..... having been heard (or not having appeared): It is hereby ordered that the said ..... pay to this Court the sum of \$ ..... , in satisfaction of the sum of \$ ..... payable by the said

Given under my hand this..... day of ..... 20 .....

(SIGNED) .....

*District Magistrate.*

(SEAL)



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FORM 29.

*Summons in Desertion.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE’S COURT.

To .....of ..... in  
the State of .....

Application having been this day made to me the undersigned District Magistrate, by .....,  
..... your wife, who alleges she has been deserted by you:

You are therefore hereby summoned to appear before this Court sitting at: .....  
in the said district on the.....day of .....20 .....,  
at 10 o’clock in the forenoon, to show cause why you should not be ordered to pay to her such sum  
or sums as to the Court seems meet for the support of herself and her family.

Dated this .....day of .....20 .....

*District Magistrate* .....

*District*.....

(SEAL)

NOTE.—If you neglect to appear at the Court as above stated the Magistrate, upon proof that  
this summons has been duly served upon you, or left at your last place of abode, may proceed, if he  
or she thinks fit, to make an order upon you to pay a weekly sum to your said wife, and other sums  
for costs and expenses.

FORM 30.

*Summons in cases of Children born out of wedlock.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE’S COURT.

To.....of ..... in the State of.....

Application having been this day made to me, the undersigned District Magistrate, by a  
single woman residing at.....in the State who has been delivered of  
a child born out of wedlock on the ..... day of .....20 .....,  
in the said State of which child she on her oath alleges you to be the father:

You are therefore hereby summoned to appear before this Court sitting at .....  
on the..... day of .....20 .....,  
at 9.00 o’clock in the forenoon, to show cause why you should not be adjudged to be the putative  
father of the said child, and ordered to pay towards the maintenance thereof such sum or sums as to  
the Court seems meet.

Dated this .....day of .....20 .....

*District Magistrate.*

(SEAL)

NOTE.—If you neglect to appear at the Court as above stated, the Magistrate upon proof that this summons has been duly served upon you or left at your last place of abode may proceed, if he or she thinks fit, to make an order upon you as the putative father of the child above referred to, to pay a weekly sum to the said mother for its maintenance and other sums for costs and expenses.

FORM 30A.

*Children born out of wedlock (Arrears).*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To .....

Complaint has been made this day by ..... for that you have unlawfully neglected to obey a certain order made by this Court on the.....day of..... 20....., whereby you were adjudged to be the putative father of a certain child born of her body out of wedlock, and ordered to pay to her for maintenance thereof the sum of ..... per week; and that there is now due to her from you in respect of the said order the sum of..... being arrears of.....weeks, payments, against the form of the Act in such case made and provided:

You are therefore hereby summoned to appear before this Court sitting at..... in the said District on ..... the ..... day of ..... 20..... at the hour of 9.00 o'clock in the forenoon, to answer to the said complaint.

Dated the ..... day of ..... 20.....

*District Magistrate* .....

*District* .....

(SEAL)

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FORM 31.

*Order in Desertion or in cases of Children born out of wedlock.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

..... v. ....

The ..... day of ..... 20 .....

On hearing the application of ..... of ..... of .....  
is hereby adjudged to be the putative father of the child of the said ..... born  
on the ..... day of ..... 20 .....  
(*or with which the said ..... is pregnant*).

[And] it is ordered that the said .....  
pay to the said .....  
..... the sum of \$ ..... on (Mon)day, the ..... day of ..... 20 .....,  
(*or in the first (Mon)day after the birth of the child with which the said ..... is pregnant*),  
and on every succeeding (Mon)day until this order is discharged or varied (*or until* .....  
[*or the sum of \$ ..... for the payment of the funeral expenses of the child of the*  
said .....], and also the sum of \$ ..... for costs, such costs to be  
paid forthwith [*or on or before the ..... day of ..... 20 .....]*.

And in default of payment of the said sum of \$ ..... for costs, it is ordered  
that [the said sum be levied by distress and sale of the goods of the said .....  
and in default of sufficient distress] the said ..... be imprisoned in Her Majesty's  
prison at ..... and there kept (to hard labour) for the space of .....  
unless the said sum (and all costs and charges of the (said distress and) commitment and of his  
conveyance to the said prison) be sooner paid.

(SIGNED).....

*District Magistrate.*

(SEAL)

\_\_\_\_\_

FORM 32.

*Order to Vary or Discharge Order in Desertion.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

..... v.....

The..... day of ..... 20.....

On hearing the application of .....  
it is ordered that the order made herein on the ..... day of ..... 20.....,  
that the said should pay to the said.....  
the sum of \$ .....on (Mon)day, the ..... day of ..... 20.....  
and on every succeeding Mon(day) be discharged [*or varied as follows, that is to say, that the said ...*  
..... shall pay to the said ..... the sum.....  
of \$ .....on (Mon)day, the ..... day of ..... , 20.....  
and on every succeeding (Mon)day until this order is discharged or varied].

(SIGNED) .....

*District Magistrate.*

(SEAL)

FORM 33.

*Order for Custody of Children born out of wedlock.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The..... day of..... 20.....

It having been shown to this Court that .....the mother of a certain child  
born out of wedlock of which your were adjudged to be the putative father, on the.....  
day of ..... 20....., is dead (*or is of unsound mind, or confined in*  
*Her Majesty's prison at.....*), it is ordered that....., of ....., shall have the  
custody of such child (*or*) and.....having on the ..... day of .....  
20....., been appointed by this Court to have the custody of the said child, such order as  
aforesaid is hereby revoked, and it is ordered that ..... shall have the custody of the said child.

(SIGNED) .....

*District Magistrate.*

(SEAL)

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FORM 34.

Reference in Salvage Dispute.

An agreement made the ..... day of ..... 20 .....,  
between ....., hereinafter called the owners, of the one part, and .....,  
hereinafter called the salvors, of the other part.

Whereas a dispute has arisen in this State between the owners and the salvors as to the  
amount of salvage payable to the said salvors in respect of salvage services performed by the said  
salvors on the..... day of ..... 20 .....,  
for the “.....(or ..... for certain cargo ex “.....,”” or as the case may be).

And whereas the said owners and salvors cannot agree as to the said dispute

And whereas the sum claimed by the said salvors does not exceed \$240;

And whereas the matter in dispute is as follows:

(Here set out the contention on behalf of the owners and of the salvors.)

.....  
.....

Now it is hereby agreed by and between the said owners and salvors that the said matter in  
dispute shall be referred to the arbitration of....., the Magistrate for  
District..... and it is further agreed that the costs of the said arbitration shall be  
in the discretion of the said magistrate (or as the case may be).

(SIGNED).....

Lodged in Court this ..... day of ..... 20 .....

(SIGNED).....

Magistrate for District

Clerk to the Magistrate for District

ENDORSEMENT OF EXTENSION OF TIME.

I hereby extend the time for the making of my award herein until the day of ..... 20 .....

(SIGNED).....

Magistrate for District

\_\_\_\_\_

FORM 35.

Award in Salvage Claim.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

In the matter of a salvage claim .....

Between

..... (hereinafter called the owners)

and

..... (hereinafter called the salvors)

Whereas a dispute has arisen in this State between ....., the owners, and .....the salvors, as to the amount of salvage, payable to the said salvors in respect of salvage services performed by the said salvors on the .....day of..... 20 ....., for the "....." (or for certain cargo ex "....." or as the case may be).

And whereas the said owners and salvors, being unable to agree as to the said dispute, and the sum claimed by the said salvors not exceeding \$240, have agreed by an agreement dated the ..... day of..... 20....., to refer the said matter in dispute to the arbitration of me, the undersigned Magistrate for District..... . And whereas it was further agreed that the costs of the said arbitration should be in my discretion (or as the case may be). And whereas on the.....day of..... 20 ....., by writing under my hand I enlarged the time for the making of my award until the ..... day of..... 20 .....

Now I, the said undersigned Magistrate for District ....., hereby make and publish this my award as follows:

(Here set out the particulars of the award)

(And I order the said ..... to pay the costs of the said .....)

Given under my hand this..... day of..... 20 .....

(SIGNED) .....

District Magistrate.

\_\_\_\_\_

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FORM 36.

Transmission to Supreme Court of copy of Proceedings in Salvage Claim.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To the Registrar of the High Court in the Circuit of .....

In the matter of the claim of..... of....., for salvage in respect of the "....." (or of the cargo ex ".....," or as the case may be).

Herewith I have the honour to transmit to you, under the provisions of the Magistrate's Code of Procedure Act, the following documents:

- 1. A certified copy of the proceedings had before me herein;
2. A certified copy of the award made by me herein;
3. A certificate of the gross value of the..... respecting which salvage is claimed.

Dated this.....day of .....20 .....

(SIGNED).....

District Magistrate.

FORM 37.

Summons to Appear.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(CIVIL SIDE).

SUIT No..... of 20.....

Between

and

Plaintiff

{

Defendant

To the defendant herein:

You are hereby summoned to appear before this Court, sitting at....., on.....the.....day of.....20.....,at the hour of.....o'clock in the.....noon to answer the plaintiff's claim, particulars of which are hereto annexed.

And Take Notice that if you fail to appear as aforesaid, the Court may proceed in your absence to judgment and execution.

Dated this.....day of .....20 .....

District Magistrate .....

District.....

(SEAL)

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This summons was served upon the  
within named.....  
by .....

STATE OF SAINT CHRISTOHER  
AND NEVIS.

PARTICULARS  
OF CLAIM.  
THE PLAINTIFF  
CLAIMS

DISTRICT

(.....)

at ..... on .....  
the ..... day of .....

IN THE MAGISTRATE'S COURT.  
20..... (Civil Side)

By .....

Suit No..... of 20 .....

*Bailiff.*

*Versus*

SUMMONS TO APPEAR.

Sworn on this .... day of ..... 20 ....., Before  
me

Summons  
Service  
Mileage

*District Magistrate, District.*

TOTAL

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_



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FORM 38.

Summons to Witness.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(CIVIL SIDE).

Suit No.

of 20



Between

Plaintiff,

.....

and

Defendant,

.....

To.....of.....

You are hereby required to attend before this Court, sitting at ..... on ..... the ..... day of ..... 20 ....., at the hour of ..... in the ..... noon, to give evidence in the above cause on behalf of the .....

Dated the..... day of ....., 20 .....

District Magistrate.

This Summons was served by me on the within-named Witness

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT

IN THE MAGISTRATE'S COURT.

(Civil Side.)

at..... No. .... of 20 .....

on the..... day of ..... 20 .....

Plaintiff

and

Bailiff.

Defendant.

SUMMONS TO WITNESS.

To appear the 20

FEES PAID.

\$ c.

Summons .....

Service .....

Total \$

FORM 39.

Judgment.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(CIVIL SIDE).

Between....., Plaintiff; (Address,.....Description).
.....and....., Defendant.
(Address,.....Description).

It is adjudged that the ..... pay to the.....(the sum of \$ ..... and)
.....the sum of \$.....for costs (by instalments of \$ .....
for every.....days, the first instalment to be paid) forthwith (or on the.....
day of..... 20.....), and in default of payment, that the
sum due be levied by seizure and sale of the..... goods.

Dated this..... day of ..... 20.....

(SIGNED) .....

District Magistrate.

FORM 40.

Judgment Summons.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(CIVIL SIDE.)

Suit No.....of 20.....

Between { ..... Plaintiff,
and ..... Defendant,

To the above named defendant or plaintiff.

The plaintiff or defendant obtained a judgment against you the above named defendant or
plaintiff, before this Court on the..... day of....., 20.....
for the payment of \$.....

And you, having made default in payment of the said sum, are hereby summoned to appear
personally before this Court sitting at ..... in the said District, on
the..... day of..... 20.....,
at the hour of..... in the.....noon to be

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examined on oath touching the means you have, or have had since the date of the judgment to satisfy the sum payable in pursuance of the said judgment, and also to show cause why you should not be committed to prison for such default.

Dated the.....day of....., 20.....

District Magistrate.

	\$	c.
Amount of judgment and costs .....		
Costs of distress against the goods.....		
Deduct { Amount paid .....		
{ Instalments which were not required to have been { paid before the date of the summons .....		
Sum payable.....		
Costs of this Summons.....		
Total amount due up to date.....	\$	

This Summons was duly served upon the within named  
 by a true Copy thereof at .....  
 on the..... day of ..... 20.....  
 STATE OF SAINT CHRISTOPHER AND NEVIS.  
 DISTRICT IN THE MAGISTRATE'S COURT.  
 (Civil Side.)  
 Suit No. .... of 20 .....

By me Bailiff.

vs. JUDGMENT SUMMONS.

Sworn on this..... day of ..... 20.....

Before me District Magistrate, District.

FORM 41.

Order of Commitment.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(CIVIL SIDE.)

Suit No.....of 20 .....

Between { ..... Plaintiff,  
and ..... Defendant,  
.....

To the Bailiff of this Court, and to the Keeper of Her Majesty's prison at..... in the State.

The plaintiff or defendant obtained judgment against the defendant or plaintiff before this Court on the .....day of ..... 20....., for the payment of \$ .....

And the defendant or plaintiff has made default in payment of the said sum, and the defendant or plaintiff having been duly summoned to show cause why you should not be committed to prison for such default.

And it being now proved that the defendant, now has, or has had since the date of the judgment, the means to pay the sum then due and payable in pursuance of the judgment, and has..... to pay the same, and has shown no cause why.....should not be committed to prison :

IT IS ORDERED that the defendant or plaintiff be committed to prison for ..... days, unless ..... sooner pay the said sum and costs stated below as that on the payment of which .....is to be discharged.

And you the said Bailiff, are hereby required to take the defendant or plaintiff and to deliver .....to the Keeper of Her Majesty's prison at.....aforesaid, and you the said Keeper, to receive the defendant or plaintiff, and there keep ..... for.....days from the arrest under this order, or until..... is sooner discharged by due course of law.

Dated the ..... day of ..... 20.....

District Magistrate.

	\$	c.
Total sum due at the time of hearing judgment summons .....		
Costs of this order .....		
Total amount on payment of which defendant will be discharged .....	\$	

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STATE OF SAINT CHRISTOPHER AND NEVIS.

By virtue of an order I ..... arrested the within named ..... at ..... on the day of ..... 20 .....

DISTRICT .....

IN THE MAGISTRATE'S COURT. (Civil Side.)

at ..... o'clock in the ..... noon, and conveyed to the Prison ..... at the ..... of ..... and

Suit No. .... of 20 .....

there delivered ..... to the ..... Keeper thereof; the said ..... being then .....

vs.

BAILIFF.

ORDER OF COMMITMENT.

Received at the Prison at o'clock ..... m. on the day of ..... 20 .....

Keeper.

FORM 41A.

Summons to Defaulting Debtor.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(CIVIL SIDE.)

Suit No. .... of 20 .....

Between { ..... Plaintiff, and ..... Defendant,

To the above named Defendant.

WHEREAS the Plaintiff obtained an order against you the above-named Defendant before this Court on the ..... day of ..... 20 ..... for the payment of \$ ..... (debt or damages and costs) by ..... instalments of \$ ..... the first of the said instalments to be paid on the ..... day of ..... 20 .....

And you, having made default in payment of \$ ..... payable in pursuance of the said order, are hereby summoned to appear personally before this Court sitting at ..... in the said District, on the ..... day of ..... 20 ..... at the hour of ..... in the forenoon to be examined on oath touching the means you

have, or have had since the date of the said order to satisfy the sum payable in pursuance of the said order, and also to show cause why you should not be committed to prison for such default.

Dated this..... day of ..... 20.....

District Magistrate .....

District .....

FORM 41B.

Complaint to vary etc. order for payment by Instalments.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The..... day of ..... of 20.....

Between { ..... Plaintiff, and ..... Defendant,

A.B. hereinafter called the judgment-debtor states that by an order judgment-creditor

duly made on the..... day of ..... 20..... under the ..... Act by the Magistrate's Court sitting at ..... in the District ..... in the State, ..... of ..... , the judgment debtor was ordered [state shortly the terms of the original order and mention any subsequent order and the effect thereof]

.....

And the judgment-debtor now applies that [the payments under] the judgment-creditor said order should be varied or altered by an order requiring ..... on the ground that

.....

Taken before me

..... District Magistrate.

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FORM 41C.

Summons to vary etc. order for payments by Instalments.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To .....of .....

Complaint has this day been made by C.D. .... (hereinafter called the complainant) that by an order duly made on the day of 20..... under the..... Act by the Magistrate's Court sitting at..... in District..... in the State, you were ordered

[state shortly the terms of the original order and mention any subsequent order and the effect thereof].

And the complainant applies that the [payments under the] said order should be varied or altered by an order requiring ..... on the ground that

You are hereby summoned to appear before this Court sitting at ..... on..... the..... day of ..... 20 ....., at..... o'clock in the noon to answer the said complaint.

Dated this..... day of ..... 20 .....

District Magistrate.

FORM 41D.

Order varying etc. Order for Payments by Instalments.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The..... day of ..... 20 .....

Complaint has been made by C.D. .... (hereinafter called the complainant) that by an order duly made on the day of..... Act by the Magistrate's Court sitting at..... in District..... in the State, you were ordered

[state shortly the terms of the original order and mention any subsequent order and the effect thereof].

And the complainant applies that the [payments under the] said order should be varied or altered by an order requiring ..... on the ground that  
.....  
.....

It is hereby adjudged that the said complaint is true and [cause being shown upon fresh evidence to the satisfaction of this Court] it is hereby ordered that ..... the [payments under the] said order be varied or altered as follows:

Dated this..... day of..... 20.....

.....  
*District Magistrate.*

FORM 42.

*Certificate for Release of Judgment Debtor.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(CIVIL SIDE)

Between....., Plaintiff  
(Address, .....  
Description.)

*and*

....., Defendant.  
(Address, .....  
Description.)

To the Keeper of Her Majesty's prison at .....

I hereby certify that the defendant (*or* plaintiff) who was committed to your custody by an order of commitment, dated the ..... day of....., 20....., has paid the sum mentioned in the said order as that upon payment of which he or she would be discharged, and may in respect of the said order be forthwith discharged.

Dated this..... day of..... 20.....

(SIGNED) .....

*District Magistrate.*



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FORM 43.

Writ of Execution.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

(CIVIL SIDE.)

Suit No. .... of 20.....

Between { ..... Plaintiff,
and
..... Defendant,

To ..... , the
Bailiff of this Court:

On the ..... day of ..... 20 .....,
it was ordered by this Court that the defendant or plaintiff should pay to the plaintiff or defendant the
sum of \$..... and \$..... , costs forthwith (or on the.....
day of ..... 20 ..... ; ) and in default the sums due thereunder
should be levied by distress and sale of the defendant's or plaintiff's goods; and default having been
made, you are hereby commanded forthwith to seize the goods of the said defendant or plaintiff
(except the wearing apparel and bedding of him or her and his or her family, and, to the value of \$24,
the tools and implements of his or her trade); and if within the space of five clear days next after the
making of such seizure, the sum stated at the foot of this Writ, to be levied, together with the
reasonable charges of executing this Writ, be not paid, then to sell, the said goods, and pay the
money arising therefrom to this Court, and if no such goods can be found, to certify the same to this
Court.

Dated the ..... day of ..... 20 .....

.....
District Magistrate.

Table with 2 columns: Description and Amount. Rows include Amount adjudged, Paid, Remaining due, Costs of issuing this writ, and Total amount to be levied.

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT

Lodged this.....day  
of.....20....., at.....o'clock

To the Bailiff:

(.....)

Levy for the within  
mentioned

sum of \$.....

IN THE MAGISTRATE'S COURT.  
(Civil Side.)

Bailiff

..... Plaintiff

and

..... Defendant.

EXECUTION.

Amount adjudged ..... \$

Paid.....

Remaining due.....

Costs of Execution.....

Total to be levied ..... \$

Dated the..... day of .....20 .....

\_\_\_\_\_

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FORM 44.

Notice of Appeal.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

Between	}	..... Appellant; and ..... Respondent
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To .....

Take notice that I, the undersigned ....., of ....., do intend to enter and prosecute an appeal to the Court of Appeal of the Eastern Caribbean Supreme Court, to be holden in the month of ....., 20 ....., against a certain order (conviction *or* judgment) bearing date the ..... day of ....., 20 ....., and made by the Magistrate for District .....

And that the reasons for my appeal are as follows:

.....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....

*(Here set forth the reasons on which the appellant relies.)*

Dated this ..... day of ....., 20 .....

(SIGNED) .....

\_\_\_\_\_

FORM 45.

Recognisance to Prosecute Appeal.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

BE IT REMEMBERED that on the ..... day of ..... 20..... of ..... and ..... of ..... personally came before me the undersigned Magistrate for the said District, and severally acknowledged themselves to owe to the Crown the several sums following, that is to say, the said ..... the sum of .....dollars and the said .....the sum of .....dollars, and the said ..... the sum of .....dollars, each of good and lawful money of the State, to be made and levied of their several goods and chattels, lands and tenements, respectively to the use of the Crown, if he or she the said..... shall fail in the condition hereunder written.

Taken and Acknowledged the day and year first above mentioned at ..... in the said District.

Before me,

..... District Magistrate.

THE CONDITION of the above written recognisance is such that if the said..... shall enter and prosecute an appeal to the Court of Appeal against a certain ..... bearing date the said day of....., 20....., and made by me the said Magistrate.

AND FURTHER that if he or she the said ..... shall abide by and duly perform the order of the Court to be made upon the trial of such appeal, then the said recognisance to be void, or else to remain in full force and virtue.

..... District Magistrate.

Revision Date: 31 Dec 2009

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

(.....)

IN THE MAGISTRATE'S COURT.

vs.

RECOGNISANCE TO PROSECUTE APPEAL.

FORM 45A.

Application to Magistrate to State a Special Case.

STATE ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To .....

District Magistrate.

Whereas an information (or complaint) wherein A.B. was informant (or complainant) and I the undersigned was defendant (or as the case may be) was heard before and determined by you, the said Magistrate for District.....in the State of St. Christopher and Nevis on the ..... day of ..... 20 ..... And whereas I the undersigned am dissatisfied with your determination upon the hearing of the said information (or complaint) as being erroneous in point of law (or as being in excess of jurisdiction): Now, therefore, I the undersigned in pursuance of the provisions of the Magistrate's Code of Procedure Act do apply to you the said District Magistrate and do hereby require you to state and sign a case setting forth the facts and grounds of your said determination, for the opinion thereon of Court of Appeal.

Dated this ..... day of ..... 20 .....

(Signed) ..... of .....

Applicant

Place of Abode.

FORM 46.

Receipt for Deposit of Money as Security for Costs of Appeal.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

Received from ..... , of ..... , the sum of \$..... , which is this day deposited as security that..... , will prosecute an appeal from the conviction (or order or judgment), dated the ..... day of ..... , 20..... , of..... , Magistrate for the said District, and will abide the judgment thereon of the Court to which the appeal is made, and pay any costs awarded against him or her by such Court.

This..... day of ..... , 20.....

(SIGNED) .....

District Magistrate.

FORM 47.

Appellant's Notice that he or she will call Witnesses.

Between ..... , of..... , Appellant; and ..... , of..... , Respondent. To.....

Take notice that I intend to call the following witnesses at the hearing of the appeal herein. That is to say, ..... , of..... ; ..... , of..... ; of.....

And that the substance of the evidence they will give is as follows:

.....  
.....  
.....  
.....

(Here set out the substance of the evidence to be given by the witnesses).

Dated this..... day of..... , 20.....

(SIGNED) .....

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FORM 48.

*Special Case stated by Magistrate.*

STATE OF CHRISTOPHER AND NEVIS.

DISTRICT .....

In the matter of an appeal from the Magistrate of District .....

Between	}	<p>..... Appellant;</p> <p>and</p> <p>..... Respondent</p>
---------	---	--

This is a case stated for the opinion of the Court of Appeal by the undersigned Magistrate for District....., pursuant to the Magistrate's Code of Procedure Act, and the case is as follows:

*(Here set out in numbered paragraphs the matter from its commencement by information, complaint, or summons to the adjudication, with the material facts proved, and such of the contentions on either side as will raise the point intended to be submitted, and conclude as follows:)*

If the Court is of opinion that..... then the conviction (or order, or judgment) shall be confirmed.

But if the Court is of the contrary opinion, then the conviction (order or judgment) shall be set aside.

This .....day of ....., 20 .....

(SIGNED).....

*District Magistrate.*

FORM 49.

*Notice of Filing of Special Case.*

In the matter of an appeal from the Magistrate of District ....., Appellant;  
and....., Respondent.

To.....

Take notice that this day there was filed and set down for hearing, before the Court of Appeal to be holden at ....., in the month of ....., 20 ....., a special case herein stated by, the Magistrate for District.....

This .....day of ..... 20 .....

(SIGNED).....

*Registrar for the Circuit of.....*

**FORM 50.**

*Certificate of the Registrar that the Costs of an Appeal have not been paid.*

I hereby certify that at the sitting of the Court of Appeal, holden at....., on the ..... day of ....., 20....., an appeal by ..... against a conviction (*or order, or judgment*) of the Magistrate for District ..... sitting at ....., dated the..... day of ....., 20....., was heard and determined. And that it was thereupon ordered that the said conviction (*or order, or judgment*) should be confirmed (*or set aside*), and that the appellant (*or respondent*) should, on or before the ..... day of....., 20....., pay to me the sum of \$..... for the respondent's (*or appellant's*) costs of the said appeal.

And I further certify that the said sum for costs has not been paid.

Dated this..... day of ....., 20.....

(SIGNED) .....

*Registrar for the Circuit of.....*

**FORM 51.**

*Notice to Magistrate of Result of Appeal.*

To the Magistrate for District.....

This is to give you notice that on the day of....., 20....., the appeal from your decision given on the day of....., 20....., in the matter of.....v., was heard by the Court of Appeal, and that the conviction (*or order, or judgment*) was confirmed (*or set aside*).

Dated this..... day of ....., 20.....

(SIGNED) .....

*Registrar for the Circuit of.....*



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FORM 52.

*Deposition that a Person is a Material Witness.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The deposition of ....., taken on oath (*or* affirmation) this..... day of ....., 20 ....., who saith that ....., of ....., is likely to give material evidence touching a certain matter now pending before the Court between..... and.....

And that this deponent verily believes that the said ..... will not appear voluntarily for the purpose of being examined as a witness (*or* without being compelled so to do) (or....., of....., having been duly served with a summons personally, (*or* by the same being left at his or her last (*or* usual) place of abode) to appear this day at this Court to give evidence in the case of..... v. ...., has failed to appear as required), .....

Sworn before me the day and year first abovementioned.

(SIGNED).....

*District Magistrate.*

FORM 53.

*Summons to Witness.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To..... of ..... has been charged with committing an offence under section..... of

You are therefore hereby summoned to appear before this Court sitting at the ..... day of ....., 20 ....., at the hour of ..... in the forenoon to testify what you know in such matter.

Dated the..... day of ..... 20 .....

*District Magistrate.*

FORM 54.

*Warrant for Apprehension of a Witness.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the Peace Officers of the State.

You are hereby commanded to bring..... ,  
of..... , before this Court, sitting at  
..... forthwith (or on..... the day of ..... , 20..... , at the hour  
of..... in the ..... noon), to testify what he or she knows concerning  
the case of ..... v. ....

Given under my hand this..... day of ..... , 20.....

(SIGNED) .....

*District Magistrate.*

(SEAL)

FORM 55.

*Commitment of a Witness.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the Peace Officers of the State, and to the Keeper of Her Majesty's Prison  
at .....

You, the said Peace Officers, are hereby commanded to take ..... safely  
to the said prison, and there deliver him or her to the Keeper thereof, together with this warrant. And  
you, the Keeper of the said prison, to receive him or her into your custody, and keep him or her for  
the space of ..... , unless he or she in the meantime  
consents to be examined and to answer in the matter of .....  
v. ....

Given under my hand this..... day of..... 20.....

(SIGNED) .....

*District Magistrate.*

(SEAL)

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FORM 56.

*Deposition taken out of Court.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

The deposition of .....

Taken on oath (or affirmation) at .....  
by reason that .....  
on the..... day of ....., 20 ....., in the presence  
of .....

And the said ..... says that .....

Sworn before me this ..... day of ..... 20 .....

(SIGNED).....

*District Magistrate.*

\_\_\_\_\_

FORM 57.

*Notice to Defendant that a certain Deposition will be taken out of Court.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To.....of .....

Take notice that the deposition of .....,  
who is ....., will be taken at  
..... on the ..... day of ....., 20 ....., at the  
hour of ..... in the ..... noon.

Dated this ..... day of ....., 20 .....

(SIGNED).....

\_\_\_\_\_

FORM 58.

*Order to bring up Prisoner for the Examination of a Witness out of Court.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To the Keeper of Her Majesty's prison at.....

You are hereby ordered to bring....., now in your custody, before me at ..... on the ..... day of....., 20....., at the hour of..... in the ..... noon, and on the conclusion of the proceedings to take him or her back to the said prison, and there detain him or her in accordance with the warrant held by you in that behalf.

Given under my hand this.....day of....., 20.....

(SIGNED) .....

*District Magistrate.*

(SEAL)

FORM 59.

*Order of Recognisance to Keep the Peace.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The..... day of....., 20.....

On the complaint of....., that....., hereinafter called the defendant, did on the..... day of....., 20....., at.....

It is hereby adjudged that the defendant do forthwith to the satisfaction of....., enter into a recognisance in the sum of \$....., with.....surety, in the sum of \$..... (each), to keep the peace, and to be of good behaviour towards Her Majesty and all her liege people, and especially towards....., the complainant, for the term of..... next ensuing.

And it is adjudged that if the defendant fail to comply with this order, he or she be imprisoned in Her Majesty's prison at.....for the space of....., unless he or she sooner complies with this order.

*(If costs are ordered, add:* And it is ordered that the defendant pay to the complainant the sum of \$....., for costs forthwith (or on the.....day of....., 20.....). And in default of payment, it is ordered that the sum due be levied by distress and sale of the defendant's goods, and in default of sufficient distress, that the defendant be imprisoned in the said prison, and there kept (to hard labour) for the space of..... (commencing at the termination of the imprisonment before ordered), unless the said

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sum ..... (and all costs and charges of the (said distress and) commitment,  
and of his or her conveyance to the said prison), be sooner paid.)

(SIGNED).....

*District Magistrate.*

(SEAL)

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FORM 59A.

*Certificate of Recognisance having been entered into.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To the Keeper of Her Majesty's prison at

A.B. being now in your custody under a warrant of the District Magistrate's Court  
sitting at..... in the State, dated the ..... day of ....., 20 .....

It is hereby certified that the surety .....referred to in the said warrant h.....  
duly entered into a recognisance before the above Court sitting at .....  
in the State,.....

[or before me].

You are therefore authorised and required to take the recognisance of the said A.B., if not  
already taken, and to discharge him/her forthwith, if held for the cause stated in the said warrant and  
no other.

Dated this .....day of ....., 20 .....

.....  
*District Magistrate.*

or

.....  
*District Magistrate, Clerk of Magistrate,  
or Chief of Police or other officer of Police  
or constable in charge of police station.*

---

**FORM 59B.**

*Certificate of Amount and Condition of Recognisance.*

**STATE OF ST. CHRISTOPHER AND NEVIS.**

DISTRICT .....

**IN THE MAGISTRATE'S COURT.**

A.B. (hereinafter called the defendant) was, on the ..... day of..... , committed by the Magistrate for District ..... sitting at, to Her Majesty's prison at ..... , charged with (or convicted of) (naming the offence shortly) (add if notice of appeal has been given, or application made for a case to be stated).

[And has given notice of appeal, or applied for a case to be stated].

I hereby certify that the said Court has consented to the defendant being bailed by recognisance, himself/herself in..... , and (or has fixed the amount of the recognisance to be entered into by the defendant at ..... with..... ) ..... surety ..... in..... (each), conditioned for ..... the appearance of the defendant at the said Court on the ..... day of ..... at the hour of ..... in the ..... noon (or at every time and place to which during the course of the proceedings against the defendant the hearing may be from time to time adjourned, unless the court shall order otherwise in the meantime). ..... (or the appearance of the defendant at the next Circuit Court at ..... to take his/her trial.) (or to prosecute an appeal against his/her conviction.) (or the prosecution without delay by the defendant of an appeal to the Court of Appeal against his/her conviction and for the appearance of the defendant before the said District Court within ten days after the judgment of the superior court shall have been given, to abide such judgment, unless the determination appealed against be reversed.) (or the defendant keeping the peace and being of good behaviour for the term of..... from the date aforesaid.)

Dated this..... day of ..... , 20..... .

*Clerk of the said District Magistrate's Court.*

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FORM 60.

Recognisance in the case of an Accused Person.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

WE, the undersigned, severally acknowledge ourselves to owe to the Crown the several sums following, namely:

....., of
Name of Principal.

Address

Profession or Calling

as principal, the sum of \$ ..... ; and ..... of ..... and ..... of ..... as sureties, the sum of \$..... each to be levied of our several goods, lands and tenements, if the said principal fail in the condition hereunder written.

Taken before me at ..... the ..... day of ..... 20 .....

{

District Magistrate.

CONDITION.

The condition of the above recognisance is such that if the above bounden principal shall appear before the Court sitting at ....., in the State, in the month of ..... 20....., and at any adjourned hearing thereof to answer the charge made against ..... by ..... and to be dealt with according to law, and not depart the Court without leave, then this recognisance shall be void, but otherwise shall remain in full force.

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT.....

(.....)

IN THE MAGISTRATE'S COURT.

RECOGNISANCE OF

TO APPEAR FOR TRIAL.

FORM 61.

Recognisance in the case of Prosecutor or Witness.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

I, the undersigned, acknowledge myself to owe to the Crown the sum of \$ ..... , to be levied of my goods, lands, and tenements, if I fail in the condition hereon endorsed.

(Signed, where not taken orally)..... X

Taken (orally) before me,

This..... day of ..... , 20.....

(SIGNED) .....

District Magistrate.

The condition of the abovementioned recognisance is such that if the above bounden ..... appears before the Circuit Court sitting at ..... , in the month of ..... , 20. , and then and there prosecutes (or gives evidence, or prosecutes and gives evidence) in the charge made by..... against ..... then this recognisance shall be void but otherwise shall remain in full force.

FORM 61A.

Recognisance to Keep the Peace.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The under-mentioned persons severally acknowledge themselves to owe to the Crown the several sums following, namely:

of..... , as principal, the sum of ..... , and of..... , and ..... , of..... , as surety ..... the sum of ..... (each) to be levied on their several goods, lands, and tenements if the said principal fail in the condition hereon endorsed.

(Signed, where not taken orally) A.B. G.H. J.K.



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Taken (orally) before me this ..... day of .....20 .....

District Magistrate  
Clerk of the Magistrate  
Chief of Police or  
other officer of Police or  
constable in charge of police station.

CONDITION.

*The condition of the above recognisance is such that if the above bounden principal shall keep the peace and be of good behaviour towards the Crown, and especially towards ..... for the term of ..... now next ensuing, then the said recognisance shall be void but otherwise shall remain in full force.*

---

FORM 62.

*Notice of Recognisance to Accused.*

*(Magistrate's Court.)*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

TAKE NOTICE that you ..... are bound in the sum of \$ ..... as Principal, and you ..... and ..... in the sum of \$ ..... each as Sureties, that you the said Principal will appear before this Court sitting at ..... in the said District on the ..... day of .....20 ....., at the hour of ..... in the ..... noon, and at every other time and place to which the hearing of the case may be from time to time adjourned, to answer to the charge made against you by ..... and be dealt with according to law.

And unless you (the said Principal) appear accordingly, the said sums will forthwith be levied on you (severally).

Dated the .....day of .....20 .....

*District Magistrate* .....

*District*.....

---

FORM 62A.

*Notice of Recognisance to Prosecute and give Evidence.*

TAKE NOTICE that you ..... are bound in the sum of \$ ..... that you will appear before the Circuit Court sitting at the ..... in the month of ..... next to prosecute and/or give evidence in the charge made against ..... by .....

And unless you appear accordingly the said sum will forthwith be levied upon you.

Dated the ..... day of ..... 20.....

*District Magistrate* .....

*District* .....

\_\_\_\_\_

FORM 62B.

*Notice of Recognisance to Keep the Peace.*

TAKE NOTICE that you ..... are bound in the sum of \$ ..... as Principal, and you ..... and ..... in the sum of \$ ..... each as sureties, that you (the said Principal) will keep the peace and be of good behaviour towards the Crown, and especially towards one ..... for the space of ..... now next ensuing.

And unless you (the said Principal) keep the peace and be of good behaviour accordingly, the said sums will forthwith be levied on you (severally).

Dated the ..... day of ..... 20.....

*District Magistrate* .....

*District* .....

\_\_\_\_\_

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FORM 63.

Summons for Forfeiture of Recognisances.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT

IN THE MAGISTRATE'S COURT.

To .....

You are hereby summoned to appear before this Court sitting at .....  
....., on the ..... day of  
20....., at the hour of ..... in the ..... noon, to  
show cause why the recognisance entered into the ..... day of ..... 20 .....,  
whereby you are bound to pay the sum of \$ ..... should not be adjudged to be forfeited.

Dated this ..... day of ....., 20 .....

(SIGNED) .....

District Magistrate.

(SEAL)

FORM 64.

Conviction (Forfeited Recognisance).

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The ..... day of ..... 20 .....,  
hereinafter called the defendant, was by his or her recognisance entered into the .....  
day of ....., 20, ..... bound in the sum of \$ .....  
and his or her sureties, .....  
and .....  
in the sum of \$ ..... each, the condition of the recognisance being that the said defendant  
should .....

And it being now proved that the defendant was on the ..... day of .....,  
20....., convicted of the offence of having the same being a breach of the said condition;

It is therefore adjudged the said recognisance be forfeited, and that the said ..... pay  
to .....  
the sum of \$ ....., and the further sum of \$ ..... for costs (by instalments  
of \$ ..... for everyday, the first instalment to be paid) forthwith (or on  
the ..... day of 20 .....

And in default of payment, it is ordered that (the sums due from the said .....  
under this adjudication be levied by distress and sale of his or her goods, and in default of sufficient  
distress, that) he or she be imprisoned in Her Majesty's prison at .....  
and there kept (to hard labour) for the space of ..... unless the said sums (and all

costs and charges of the (said distress and) commitment, and of his or her conveyance to the said prison), be sooner paid.

.....  
*District Magistrate.*

FORM 65.

*Summons to Vary Sureties.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To .....  
of .....

You are hereby summoned to appear before this Court sitting at .....  
....., on ..... the  
day of ..... 20 ....., at the hour of ..... in the .....  
noon to show cause why the order made by this Court on the ..... day of .....  
20 ....., against ..... to find sureties, should not be varied or otherwise dealt with.

Dated this ..... day of ..... , 20 .....

(SIGNED) .....

*District Magistrate.*

(SEAL)

FORM 66.

*Endorsement of Forfeiture of Recognisance.*

STATE OF ST. CHRISTOPHER AND NEVIS.

IN THE MAGISTRATE'S COURT.

The within-mentioned principal not having complied with the said condition, this Court adjudges the within-written recognisance to be forfeited.

Dated this ..... day of ..... , 20 .....

(SIGNED) .....

*District Magistrate.*

(SEAL)

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FORM 67.

Endorsement Mitigating Forfeiture, etc.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

The within-mentioned recognisance having been adjudged to be forfeited, and..... having applied to this Court to cancel (or mitigate) such forfeiture, and having given security to the satisfaction of this Court for the future performance of the condition of the said recognisance, and having paid (or given security for payment of) the costs incurred in respect of the forfeiture thereof (or insert such other condition as the Court may think just).

Therefore the said forfeiture is hereby cancelled (or mitigated to the sum of \$ .....).

Dated this .....day of ....., 20 .....

(SIGNED).....

District Magistrate. (SEAL)

FORM 68.

Security for Fine.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

....., hereinafter called the defendant, was this day (or on the ..... day of ....., 20 .....), convicted before this Court and ordered to pay the sum of \$ .....(by instalments of \$ ..... for every..... days, the first instalment to be paid) forthwith (or on the ..... day of ..... 20.....), and to give security for the due payment thereof.

Now, therefore, the defendant and his or her sureties, ..... of ..... and ..... of ..... hereby undertake that the defendant will pay the sum adjudged at the time and in the manner thereby directed, and hereby severally acknowledge themselves severally bound to forfeit and pay the sum of \$ .....to this Court in case the defendant fails to perform this undertaking.

Signed, where not taken orally,

x x x

Taken (orally) before me,

This .....day of ....., 20 .....

(SIGNED).....

District Magistrate.

FORM 69.

Security to Perform Condition of Forfeited Recognisance.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

....., hereinafter called the defendant, was by his or her recognisance entered into the ..... day of..... 20....., bound in the sum of \$.....

And the said recognisance has been adjudged to be forfeited, but the said defendant has applied to this Court to cancel (or mitigate) the forfeiture.

Now, therefore, the defendant and his or her sureties,..... of....., and ..... of..... hereby undertake that the condition of the said recognisance shall be duly performed (and that the said..... shall on or before the..... day of..... pay the sum of \$ ..... for costs incurred in respect of the said forfeiture), and hereby severally acknowledge themselves severally bound to forfeit and pay the sum of \$..... in case the said defendant fails to perform the condition of the said recognisance.

Signed, where not taken orally, ..... x  
..... x  
..... x

Taken (orally) before me, .....

The..... day of ....., 20.....

(SIGNED) .....

District Magistrate.

\_\_\_\_\_

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FORM 70.

*Notice to Principal of Forfeiture of Security.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To .....

of .....

Take notice that you have forfeited the sum of \$ ..... for which you were bound by your undertaking entered into the ..... day of ....., 20 ....., and that unless you pay that sum to ..... at ..... , 20 ....., on or before the ..... day of ....., 20 ....., a warrant of distress will be issued for the recovery thereof.

Dated this ..... day of ....., 20 .....

(SIGNED).....

*District Magistrate.*

FORM 71.

*Order Varying Order for Sureties.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

..... , hereinafter called the defendant, has been, under a warrant of commitment dated the ..... day of ..... 20 ....., issued by this Court, committed to prison for default in finding surety ..... in the sum of \$.....

Upon further consideration, it is now ordered that the amount in which the surety..... of the defendant are to be bound be reduced to \$ ..... (or the obligation of the defendant to find surety ..... be dispensed with).

Dated this ..... day of ....., 20 .....

(SIGNED).....

*District Magistrate.*

(SEAL)

FORM 72.

Warrant of Distress.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all the Peace Officers of the State.

....., hereinafter called the defendant, ..... was, on the ..... day of ..... 20....., ordered to pay ..... the sum of \$..... and the sum of \$..... for costs, under section ..... of Cap..... of .....

And it was further ordered that in default of payment the said sums should be levied by distress and sale of the defendant's goods, and in default of sufficient distress that the defendant should be imprisoned in Her Majesty's prison at..... in the said State, and there kept for the space of ..... unless the said sums and all costs and charges of the said distress and commitment and of ..... conveyance to the said prison should be sooner paid:

And default having been made in payment, you are hereby commanded to forthwith make distress of the goods of the defendant, except the wearing apparel and bedding of him or her and his or her family, and, to the value of twenty-four dollars, the tools and implements of his or her trade; and if within the space of five clear days next after the making of such distress, unless he or she consents in writing to an earlier sale, the sums stated at the foot of this warrant, together with the reasonable costs and charges of the making and keeping of the said distress be not paid then to sell the said goods, and after deducting the expenses of the sale, pay so much of the money arising therefrom to this Court as is sufficient to satisfy this warrant, and the surplus, if any, to the defendant, and if no such distress can be found to certify the same to this Court.

Dated this..... day of ....., 20.....

(SIGNED) .....

District Magistrate.

(SEAL)

	\$	c.
Amount adjudged.....		
Paid.....		
Remaining due .....		
Costs of issuing this warrant .....		
Total amount to be levied.....		



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STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

*Versus.*

WARRANT OF DISTRESS.

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	\$	c.
Amount due.....		
Costs of this Warrant		
Total.....		

FORM 73.

*Endorsement on Process.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

Proof on oath (or affirmation) having this day been made before me that the name of ..... to the within distress warrant subscribed is of the handwriting of the District Magistrate within mentioned, I authorise ....., who brings to me this warrant, and all other persons by whom it may be lawfully executed, and also all Peace Officers of the State, to execute the same within this State.

Dated this .....day of .....20 .....

(SIGNED).....

*District Magistrate.*

\_\_\_\_\_

FORM 74.

Warrant of Distress for Sum Due Under Recognisance.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the Peace Officers of the State.

..... was by his or her recognisance entered into the.....day of..... 20....., bound in the sum of \$ ..... And the condition of the said recognisance having been broken, it was on..... the.....day of..... 20....., adjudged by this Court that the said recognisance be forfeited, and that he or she do pay the said sum of \$ ..... , and also do pay the further sum of \$ ..... for costs (by instalments of \$ ..... , for every..... days, the first instalment to be paid) forthwith (or on the ..... day of ..... , 20.....).

And default having been made in payment, you are hereby commanded to forthwith make distress of the goods of the said ..... except the wearing apparel and bedding of him or her and his or her family, and, to the value of twenty-four dollars, the tools and implements of his or her trade); and if within the space of five clear days next after the making of such distress, unless he or she consents in writing to an earlier sale, the sum stated at the foot of this warrant, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods, and, after deducting the expenses of the sale, pay so much of the money arising therefrom to this Court as is sufficient to satisfy this warrant, and the surplus, if any, to the said ..... and if no such distress can be found to certify the same to this Court.

Dated this.....day of ..... , 20..... .

(SIGNED) .....

District Magistrate.

(SEAL)

\$ c.

Amount due under recognisance .....

Paid ..... \_\_\_\_\_

Remaining due .....

Costs of issuing this warrant ..... \_\_\_\_\_

Total amount to be levied ..... \_\_\_\_\_

\_\_\_\_\_

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FORM 75.

Return of Insufficient Distress to be Endorsed on Warrant.

I, hereby certify that by virtue of the within-written warrant I have made diligent search for the goods of the within-named, and that I can find no sufficient goods of him or her whereon the sums within mentioned can be levied.

Dated this day of 20

(SIGNED)

FORM 75A.

Warrant to Commit in Default of Distress.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT

IN THE MAGISTRATE'S COURT.

To each and all the Peace Officers of the State, and to the Keeper of Her Majesty's prison at in the State. hereinafter called the defendant having been ordered on the day of 20, to pay the sum of \$ and the further sum of \$ for costs under section of

And default having been made in payment, the constables aforesaid were authorised by warrant, dated the day of 20, to levy the sum of \$ by distress:

And it now appearing that no sufficient distress whereon to levy the said sum could be found. You, the said constables, are hereby commanded to convey the defendant to the said prison and there deliver h to the keeper thereof, together with this warrant, and you the keeper of the said prison, to receive the defendant into your custody, and keep h for the space of unless the said sum, and all the costs and charges of the said distress, amounting to the further sum of and all the costs and charges of h commitment and of h conveyance to the said prison be sooner paid.

Dated this day of 20

District Magistrate

District

Table with 2 columns: Description, Amount. Headers: \$, c. Rows: Amount adjudged, Costs, Costs of Distress Warrant, Costs of Warrant of commitment, Total.

STATE OF SAINT CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

WARRANT TO COMMIT IN DEFAULT OF DISTRESS.

	\$	c.
Fine.....		
Compensation.....		
Costs.....		
Distress Warrant.....		
Costs of Commitment.....		
Total .....		

FORM 76.

Account of Charges Incurred on a Warrant of Distress.

In the matter of an information (or complaint) by ..... against .....

I....., of....., the Peace Officer charged with the execution of the warrant of distress upon the goods of ....., dated the..... day of ....., 20....., hereby declare that the following is a true account of the costs and charges incurred in respect of the execution of the said warrant.

Dated this..... day of ..... 20.....

(SIGNED) .....

	\$	c.
Total		

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FORM 77.

*Replevin Bond.*

Know all men by these presents that we, .....  
of .....  
of .....  
and.....  
of ....., are held and firmly bound unto ....., in the sum of \$.....  
to be paid to the said....., his or her executors, administrators, or assigns, for which  
payment to be made we bind ourselves and each of us, and the heirs, executors, and administrators of  
us and each of us respectively jointly and severally by these presents.

Sealed with our seals and dated this..... day of ....., 20 .....

Whereas the abovementioned ..... and ....., at the request of  
the saidhave agreed to enter into the above-written obligation, and this security has been approved by  
the Magistrate for (or the clerk to the Magistrate for) District .....

Now the condition of this obligation is that if the above bounden .....  
..... within .....  
days from the date of this obligation commences an action of replevin against the said .....,  
in the.....Court to be holden at ....., for taking and  
detaining certain goods and chattels of the saidto wit ....., and  
prosecutes such action without delay, and also makes return of the said goods and chattels if return  
thereof is awarded by the said Court, then this obligation shall be void and of no effect, but otherwise  
shall remain in full force.

Signed, sealed, and delivered by....., (SEAL)  
in the presence of.....

Signed, sealed, and delivered by....., (SEAL)  
in the presence of.....

Signed, sealed, and delivered by....., (SEAL)  
in the presence of.....

\_\_\_\_\_

FORM 78.

Warrant to Replevy.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATES COURT.

To the Peace Officers of the State.

Whereas ..... of ..... has given security as well to commence his or her action of replevin against ..... for the taking and detaining of certain goods and chattels of the said ....., that is to say, ....., and prosecute such action with effect and without delay, as also to return the said goods and chattels if return thereof shall be adjudged by the law;

Now I hereby authorise and direct you without delay to replevy and deliver the said goods and chattels to the said ....., and forthwith return to me this warrant, and what you shall have done thereunder.

Dated this..... day of ....., 20 .....

(SIGNED) .....

District Magistrate.

(SEAL)

FORM 79.

Commitment on Remand.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To each and all of the Peace Officers of the State, and to the Keeper of Her Majesty's Prison at ..... in the State.

....., hereinafter called the defendant, being brought before this Court at ..... charged with having committed an offence under section ..... of Chapter ..... of .....

The hearing of the case being adjourned; .....

YOU, the said Peace Officers, are therefore hereby commanded to convey the defendant to the said prison, and there to deliver him or her to the Keeper thereof, together with this warrant, and you, the Keeper of the said prison, to receive him or her into your custody, and keep him or her until the ..... day of ....., 20 ....., and on that day to convey him or her before this Court, sitting at....., at the hour of..... in the ..... noon, to be dealt with according to Law.

Given under my hand this..... day of ....., 20 .....

(SIGNED) .....

District Magistrate.

(SEAL)

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STATE OF SAINT CHRISTOPHER AND NEVIS.

ENDORSEMENT WHERE BAIL IS ALLOWED.

DISTRICT .....  
(.....)

I hereby certify that I consent to the defendant being bailed himself or herself in

IN THE MAGISTRATE'S COURT.

COMMITMENT ON REMAND OF  
.....

District Magistrate.

Dated ..... day of ..... 20 .....

FORM 80.

Order to Bring Up a Prisoner.

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

To the Keeper of Her Majesty's prison at .....

You are hereby ordered to bring ....., now in your custody, before this Court, sitting at  
on..... day the .....day of ....., 20 .....,  
at the..... hour of ..... in the ..... noon.

This ..... day of ....., 20 .....

(SIGNED).....

District Magistrate.

(SEAL)

FORM 81.

*Order for Restitution.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

Whereas ..... of ..... has been charged with having committed an indictable offence, and has been summarily convicted by me of an offence under section ..... of Chapter ..... of ..... ;

And whereas certain property to wit ..... , being the subject-matter of the offence committed by the said, is now in the custody of ..... , a Peace Officer of the State, and is the property of ..... ;

Now I hereby order that the said property be restored to the said.....

Given under my hand this..... day of..... , 20.....

(SIGNED) .....

*District Magistrate.*

(SEAL)

FORM 82.

*Register.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

IN THE MAGISTRATE'S COURT.

Register of the Magistrate's Court for District ....., sitting at

The..... day of..... , 20.....

Number (1)	Name of Informant or complainant. (2)	Name of Defendant. Age if known. (3)	Nature of offence or of matter of complaint. (4)	Date of offence. (5)	Plea. (6)	Minute of adjudicatio n. (7)	Time allowed for Payment and Instalments. (8)

*Magistrate* .....

*District* .....



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FORM 83.

*Juvenile Court's Register.*

STATE OF ST. CHRISTOPHER AND NEVIS.

DISTRICT .....

This ..... day of ....., 20 .....

Number and date of entry.	Name of Informant or Complainant.	Name and age of defendant. Election to be tried summarily (see rule 4 (2)).	Nature and date of offence or of matter of complaint.	Fees and time allowed for payment of instalments.	How brought before the Court. Plea.	Minute of adjudication.	Magistrate adjudicating.

FORM 84.

*Remitted Fee Book.*

Date	Nature of business.	Amount of fees.	Reasons for remission.	Signature of Magistrate

**FIFTH SCHEDULE**

(Section 247)

**MAGISTRATE'S CODE OF PROCEDURE (CROWN PROCEEDINGS) RULES****1. Short title.**

These Rules may be cited as the Magistrate's Code of Procedure (Crown Proceedings) Rules, and shall be read as one with the Magistrate's Code of Procedure Rules, hereinafter called the Principal Rules.

**2. Interpretation.**

In these Rules,

“Act” means the Magistrate's Code of Procedure Act;

“Court” means a Magistrate's Court established under the Act;

“Schedule” means the Schedule to these Rules.

**3. Principal Rules to apply to Civil Proceedings.**

(1) Save as provided by these Rules the Principal Rules, shall so far as may be apply to all civil proceedings by or against the Crown instituted in a Court on or after the date of commencement of the Crown Proceedings Act, Cap. 5:06.

(2) Such civil proceedings, as aforesaid, shall so far as may be take the same form as civil proceedings between subjects.

**4. Venue.**

For the purposes of section 144 of the Act, the Crown shall be deemed to reside within each Magisterial District of every Court.

**5. Endorsement of claim on Summons.**

(1) The endorsement on the back of a summons in proceedings against the Crown shall contain information as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the Government departments and officers of the Crown concerned.

(2) In such proceedings if the Court considers that the endorsement on the summons does not contain the required information as aforesaid, the Court shall order the plaintiff to supply the said information and shall amend the endorsement accordingly.

**6. Set-off or Counterclaim.**

(1) In proceedings for the recovery of taxes, duties or penalties a defendant shall not be entitled to avail himself or herself of any set-off or counterclaim, or in proceedings

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of any other nature, to avail himself or herself of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties.

(2) A defendant shall not be entitled, without the leave of the Court, (to be obtained on application of which not less than seven clear days' notice has been given to the Crown) to avail himself or herself of any set-off or counterclaim if either the subject matter of the set-off or counterclaim does not relate to a Government department connected with the proceedings or the proceedings are brought in the name of the Attorney-General.

(3) Where civil proceedings are brought against the Crown the Crown shall not be entitled, without the leave of the Court, (to be obtained on an application of which not less than seven clear days' notice has been given to the plaintiff) to avail itself of any set-off or counterclaim

- (a) where the Crown is sued and its alleged liability has arisen through the acts of a Government department if the subject matter thereof does not relate to that department; or
- (b) when the Crown is sued in the name of the Attorney-General.

**7. Execution.**

(1) In this Rule, the following expressions have the following meanings:

“order against the Crown” means any order (including an order for costs) made in any civil proceedings by or against the Crown or in connection with any arbitration to which the Crown is a party, in favour of any person against the Crown or against an officer of the Crown as such;

“order” includes a judgment, decree, rule, award or declaration.

(2) No order

- (a) for execution or for the issue of a writ of sale under execution;
- (b) for attachment of any debt or any money due or accruing or alleged to be due or accruing from the Crown;
- (c) for the issue of a writ of possession or writ of delivery, or judgment summons;
- (d) in relation to garnishee proceedings, or
- (e) for the enforcement of a judgment;

shall apply in respect of any order against the Crown.

(3) In any case where it is alleged that an order under paragraph (2) (b) of this Rule could have been obtained and would have had effect in respect of such debt or money if it had been due or accruing from a subject, the Court may, on the application of the judgment creditor, make an order restraining the judgment debtor from receiving such debt or money and directing payment by the Crown to the judgment creditor:

Provided that no such order shall be made in respect of wages or salary payable to any officer of the Crown as such, or money which is subject to the provisions of any enactment prohibiting or restricting assigning or charging or taking in execution, or money payable by the Crown to any person on account of a deposit in a Government Savings Bank.

(4) Where the judgment creditor seeks to make any such application as aforesaid he or she shall file in the Court an affidavit by himself or herself or his or her solicitor in the Form A in the Schedule containing the information required thereby, and, if the application is made in a court other than the court in which the judgment or order was given or made, file in the Court to which the application is being made a certificate of the judgment or order, and thereupon the clerk of the Court shall enter the proceedings in the books of the Court, fix a day for the hearing, prepare and issue a notice in the Form B in the Schedule, and make all necessary copies thereof.

(5) The notice shall be served upon the Crown not less than fourteen clear days before the day fixed for the hearing, and where it has been so served the clerk of the Court shall serve a copy thereof on the judgment debtor not less than seven clear days before the day so fixed.

(6) If the Crown disputes liability, the Court may determine the question of the liability of the Crown, and where it is suggested that the debt or money with reference to which the proceedings are taken belongs to some third person, or that any third person has a claim upon it, the Court may order the third person to appear and state the nature and particulars of his or her claim upon the debt or money, and, after hearing the third person if he or she appears, the Court may bar the claim of the third person or may order an issue to be tried between the third person and the judgment creditor or make such other order (including an order as to costs) as may be just.

#### **8. Judgment in Default of Appearance by Crown.**

In civil proceedings against the Crown (including proceedings by way of interpleader summons under section 161 of the Act) no judgment shall be entered in default of appearance without the leave of the Court.

#### **9. Application under Section 7 (3) of the Crown Proceedings Act.**

An application by a person under subsection (3) of section 7 of the Crown Proceedings Act, Cap. 5.06 for leave to bring proceedings in the name of the sender or addressee of a postal packet or his or her personal representatives shall be in the Form C in the Schedule, and the respondents to the application shall be the Crown and the person in whose name the applicant seeks to bring proceedings.

#### **10. Removal of Proceedings from Magistrate's Court to High Court.**

Where proceedings have been removed from a Court into the High Court pursuant to section 15 of the Crown Proceedings Act, the Magistrate of the Court shall transmit a copy of the record of the proceedings in the said Court certified by him or her to the Registrar of the High Court.

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**SCHEDULE TO THE RULES**

**FORM A.**

(Rule 7(3)(b))

*Crown Proceedings Act*

**AFFIDAVIT IN SUPPORT OF APPLICATION DIRECTING PAYMENT BY CROWN TO  
JUDGMENT CREDITOR OF MONEY DUE BY CROWN TO JUDGMENT DEBTOR.**

In the Magistrate's Court ..... (*District* .....

Between

..... *Judgment Creditor*

And

..... *Judgment Debtor*

And

..... [*the Attorney-General or  
the officer of the Crown  
concerned*].

I ..... of .....  
in the State of ..... [or I, ..... of ..... in  
the State of ..... solicitor for] the above-named judgment creditor, make oath  
and say as follows:

1. .... That I [or ..... ] recovered judgment [or obtained an order] in the .....  
Magistrate's Court against the above-named judgment debtor for payment of the sum of .....  
dollars for debt [or damages] and costs.

2. That the said judgment [or order] is still wholly unsatisfied [or is still unsatisfied as  
to the sum of ..... dollars].

3. That the Crown is indebted to the judgment debtor in the sum of .....  
dollars [*add if so* for payment of which sum the judgment debtor recovered judgment [or obtained an  
order] in the ..... Magistrate's Court against the Attorney-General  
[or other officer of the Crown as the case may be] on the ..... day of ..... 20 .....  
and by the said judgment [or order] it was ordered that the Attorney-General [or other officer of the  
Crown as the case may be] should pay the sum of ..... dollars to  
the clerk of the said Court on the ..... day of ..... 20 .....  
and the sum of ..... dollars remains due and unpaid under the said judgment [or order].

\_\_\_\_\_

FORM B.

(Rule 7(3)(b))

*Crown Proceedings Act*

NOTICE OF APPLICATION FOR ORDER DIRECTING PAYMENT BY THE CROWN TO JUDGMENT CREDITOR OF MONEY DUE BY CROWN TO JUDGMENT DEBTOR.

In the Magistrate's Court.....(*District*.....)

Between ..... *Judgment Creditor*

And ..... *Judgment Debtor*

And ..... [*the Attorney-General or the officer of the Crown concerned*].

Take Notice that the judgment creditor will apply to the Court to be holden at ..... on the ..... day of ..... 20 ..... at the ..... hour of ..... in the ..... noon for an order restraining the judgment debtor from receiving the amount of the debt due, or accruing from the Crown to the judgment debtor or so much thereof as will satisfy the debt due under the judgment for ..... dollars for debt (or damages) and costs given (or made) in the ..... Magistrate's Court on the ..... day of ..... 20 ....., in an action in which the judgment creditor was plaintiff and the judgment debtor was defendant and directing payment thereof by the Attorney-General [or other officer of the Crown] to the judgment creditor.

FORM C.

(Rule 9)

*Crown Proceedings Act*

APPLICATION UNDER SECTION 7 (3) OF THE CROWN PROCEEDINGS ACT.

In the Magistrate's Court ..... (*District*.....)

In the matter of an intended action between A.B..... and the Attorney-General

..... and.....

In the matter of the Crown Proceedings Act, 20.....

Between ..... C.D..... *Applicant*

..... and

The Attorney-General and A.B. .... *Respondents.*

1. I, C.D., of ....., apply to the Court for an order that I may be allowed, upon such terms as the Court thinks just, to bring an action against the first respondent in the name of the second respondent, for loss of and/or damage to a postal packet.

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- 2. The grounds upon which I claim to be entitled to the order are:
  - (a) I am a person damnified by the loss of and/or damage to a registered inland postal packet, whereof A.B. was sender and Y.Z. addressee, caused, on or about (*date*) by the neglect or default of a servant of the Crown for which the Crown is liable under section 7 (2) of the Crown Proceedings Act;
  - (b) Neither the said A.B. nor the said Y.Z. is willing to enforce their remedies in respect of the said packet.

3. The names and addresses of the persons upon whom it is intended to serve this application are:

[The Attorney-General]  
[A.B.]

4. My address for service

Dated this .....day of .....20 .....

(SIGNED)

C.D.....*Applicant.*

**SIXTH SCHEDULE**

(Section 15)

**MAGISTRATES’ COURTS (DISTRICTS “A” AND “B”) ORDER.**

**1. Short title.**

This Order may be cited as the Magistrates’ Courts (Districts “A” and “B”) Order.

**2. Sittings of Courts.**

The Magistrates’ Courts of Districts “A” and “B” shall be held at 9 a.m. or such other time as the Magistrate may appoint on the days in each week and at the places shown hereunder:

- (1) District “A”:
  - (a) at the Magistrate’s Court, Basseterre, every Monday, Tuesday, Wednesday, Thursday and Friday, and on Saturday if and when the Magistrate may deem it necessary;
  - (b) at the High Court House, Basseterre, on such days as the Magistrate may appoint:

Provided that no court shall be held while the Supreme Court is sitting in the Saint Christopher Circuit;

- (c) at the Police Station, Sandy Point on every Friday, and on such other days as the Magistrate may appoint.

*[Substituted by SRO 12 of 1969]*

- (d) at the ground floor of Warner Park Pavilion, Basseterre, on such days as the Magistrate may appoint.  
*[Inserted by SRO 18 of 1962]*
- (e) at the Police Station, Cayon, on the first and third Thursdays in every month and on such other days as the Magistrate may appoint.  
*[Inserted by SRO 23 of 1964]*
- (f) in that room known as “The Lawyers’ Room” situated immediately to the East of the Magistrate’s Clerk’s Office and separated from the Basseterre Magistrate’s Court by a corridor, on such days as the Magistrate may appoint.  
*[Inserted by SRO 23 of 1964]*
- (2) District “B”
- (a) at the Police Station, Dieppe Bay on every Tuesday, and on such other days as the Magistrate may appoint;
- (b) at the Police Station, Old Road, on the second and fourth Thursday in every month and on such other days as the Magistrate may appoint;
- (c) at the Police Station, Sandy Point, on every Friday, and on such other days as the Magistrate may appoint;  
*[Amended by SROs 28 of 1963 and 12 of 1969]*

## SEVENTH SCHEDULE

(Section 15)

### MAGISTRATE’S COURT (DISTRICT “C”) ORDER.

**1. Short title.**

This Order may be cited as the Magistrate’s Court (District “C”) Order.

**2. Sittings of Court.**

The Magistrate’s Court for District “C” shall be held at the times and places hereinafter mentioned:

- (a) at the Police Station, Charlestown, on every Monday and Wednesday;
- (b) at the Police Station, New Castle, on the first Tuesday in every month;
- (c) at the Police Station, Gingerland, on the second Tuesday in every month;
- (d) additionally, at such other times as in the opinion of the Magistrate may be necessary for the despatch of the business of the Court.

*[Amended by SRO 29 of 1963]*



## **EIGHTH SCHEDULE**

(Section 66)

1. Sexual intercourse with a girl under fourteen years of age contrary to section 3(1) of the Criminal Law Amendment Act, Chapter 4.05.
2. Unlawful sexual intercourse with a woman who is an idiot or imbecile, contrary to section 4(b) of the Criminal Law Amendment Act, Chapter 4.05.
3. Incest contrary to section 74 of the Offences Against the Person Act, Chapter 4.21.
4. Non-consensual buggery, contrary to section 56 of the Offences Against the Person Act, Chapter 4.21.
5. Wounding with intent contrary to section 17 of the Offences Against the Person Act, Chapter 4.21.
6. Robbery contrary to section 31(1)(a) and (b) of the Larceny Act, Chapter 4.16, where it is alleged that a firearm, imitation firearm or explosive, as defined in section 2 of the Firearms Act, Chapter 19.05 was used by the defendant or another person to subject the victim to force or to put or seek to put the victim in fear of being subjected to force.
7. Possession or use of firearm or ammunition contrary to section 20(1)(a) or 20(1)(b) of the Firearms Act, Chapter 19.05.
8. Possession or supply of drugs, where the Director of Public Prosecutions transfers the case to the High Court.
9. Committing another offence while on bail.

*[Inserted by Act 33/2005]*