

Magistrate's Courts

Cap. 116A.

**MAGISTRATE'S COURTS (CRIMINAL
PROCEDURE) RULES, 2001**

2001/98.

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**MAGISTRATE'S COURTS (CRIMINAL
PROCEDURE) RULES, 2001**

2001/98.

Authority: These Rules were made on 13th June, 2001 by the Rules Committee under section 268 of the *Magistrate's Courts Act*.

Commencement: 20th September, 2001.

1. These Rules may be cited as the *Magistrate's Courts (Criminal Procedure) Rules, 2001*. Citation.

Preliminary

2. In these Rules,

"form" means a form set out in the *First Schedule*;

"Registrar" means the Registrar of the Supreme Court;

"Superintendent" means the Superintendent of Prisons.

Interpreta-
tion.
First
Schedule.

Sittings of the Court

3. The sittings of the court shall be held on such days and at such times as Sittings of the court.

(a) the Chief Justice by order appoints;

(b) the Chief Justice directs; or

(c) subject to paragraphs (a) and (b), the magistrate determines under section 9 of the Act.

*Summary Trial and Hearing of Complaints*Form of
summons.

4. (1) A summons requiring a person to appear before a magistrate's court to answer to an information or complaint shall state shortly the matter of the information or complaint, and shall state the time and place at which the defendant is required by the summons to appear.

(2) A single summons may be issued against a person in respect of several informations or complaints; but the summons shall state the matter of each information or complaint separately and shall have effect as several summonses, each issued in respect of one information or complaint.

Service of
summons
etc.

5. (1) Service of a summons on a person other than a corporation may be effected

- (a) by delivering it to the person to whom it is directed;
- (b) by leaving it for him with some adult person at his last known or usual place of abode; or
- (c) by sending it by post in a registered letter addressed to him at his last known or usual place of abode.

(2) If the person summoned fails to appear, service of a summons in the manner authorised by paragraph (1)(c) shall not be treated as proved unless it is proved that the summons came to his knowledge; and for that purpose any letter or other communication purporting to be written by him or on his behalf in such terms as reasonably to justify the inference that the summons came to his knowledge shall be admissible as evidence of that fact.

(3) Service of a summons or other document on a corporation may be effected upon the secretary, treasurer, manager, principal officer or clerk of the corporation or, where there is a registered address, at that address.

(4) Any summons or other document served in the manner authorised by paragraph (3) shall, for the purposes of any enactment other than the Act or these Rules requiring a summons or other document to be served in any particular manner, be deemed to have been as effectively served as if it had been served in that manner; and nothing in this rule shall render invalid the service of a summons or other document in that manner.

(5) Paragraph (1)(c) shall not authorise the service by post of a summons requiring the attendance of any person to give evidence or produce a document or thing.

(6) Paragraph (1) shall have effect in relation to any document required to be served under the Act as it has effect in relation to a summons.

6. (1) Where a magistrate has issued any summons or warrant or otherwise taken or commenced any proceeding or matter under any authority, however conferred, and subsequently ceases to act as magistrate, the person in whose hands the summons or warrant is may execute or serve it in the same manner as if the magistrate who issued it had not ceased to so act. Completion
of process.

(2) Any person who succeeds a magistrate or any person who acts for a magistrate may hear, determine, execute, enforce and carry to completion any proceeding or matter commenced by that magistrate, unless the proceeding or matter is part-heard.

7. (1) An information shall not charge more than one offence. Information
and
complaint.
(2) An information may be laid or complaint made by the prosecutor or complainant in person or by his attorney-at-law or other person authorised in that behalf.

8. (1) Every information, summons, warrant or other document laid, issued or made for the purposes of, or in connection with, any proceedings before a magistrate's court for an offence shall be sufficient if it Statement of
offence.

- (a) describes in ordinary language the specific offence with which the accused is charged or of which he is convicted;
- (b) avoids as far as possible the use of technical terms;
- (c) states all the salient particulars of the offence without necessarily stating all the elements of the offence; and
- (d) gives such particulars as may be necessary for giving reasonable information of the nature of the charge.

(2) Where the offence charged is one created by the Act or under any other Act, the description of the offence shall contain a reference to the section of the Act or, as the case may be, the rule, order or regulation creating the offence.

Order of
evidence and
speeches:
information.

9. (1) On the summary trial of an information, where the accused does not plead guilty, the prosecutor shall call the evidence for the prosecution and, before doing so, may address the court.

(2) At the conclusion of the evidence for the prosecution, the accused may address the court, whether or not he afterwards calls evidence.

(3) At the conclusion of the evidence, if any, for the defence, the prosecutor may call evidence to rebut that evidence.

(4) At the conclusion of the evidence for the defence and any unsworn statement which the accused may make and the evidence, if any, in rebuttal, the accused may address the court if he has not previously done so.

(5) Either party may, with the leave of the court, address the court a second time but, where the court grants leave to one party, it shall not refuse leave to the other.

(6) Where both parties address the court twice, the prosecutor shall address the court for the second time before the accused does so.

10. (1) On the hearing of a complaint, except where the court determines under section 89(3) of the Act to make the order with the consent of the defendant without hearing evidence, the complainant shall call his evidence, and before doing so may address the court.

Order of
evidence and
speeches:
complaint.

(2) At the conclusion of the evidence for the complainant, the defendant may address the court, whether or not he afterwards calls evidence.

(3) At the conclusion of the evidence, if any, for the defence, the complainant may call evidence to rebut that evidence.

(4) At the conclusion of the evidence, if any, for the defence and any evidence in rebuttal, the defendant may address the court if he has not previously done so.

(5) Either party may, with the leave of the court, address the court a second time, but where the court grants leave to one party it shall not refuse leave to the other.

(6) Where the defendant obtains leave to address the court for a second time, his second address shall be made before the second address, if any, of the complainant.

11. Where the magistrate is not present at the time and place appointed for any sitting of the court, the clerk may, by public oral notice, adjourn the sitting until the time communicated to him by the magistrate or, in the absence of that communication, to a convenient time; and all persons bound to be present at the sitting so adjourned shall be equally bound to be present at the time appointed by the notice.

Adjournment
of the court.

12. (1) Where in the absence of the accused a magistrate's court adjourns the trial of an information, the clerk of the court shall give to the accused notice in writing of the time and place at which the trial is to be resumed.

Adjournment
of trial of
information.

(2) Service of the notice required to be given by paragraph (1) may be effected in the manner in which service of a summons may be effected under rule 5; and paragraph (2) of that rule shall apply to the proof of service of the notice as it applies to the proof of service of a summons in respect of the offence charged in the information.

Register.
Form 6.

13. (1) The clerk of every magistrate's court shall keep a register in the Form 6, the entries of which shall be signed by the magistrate.

(2) The Register shall contain the following entries:

(a) a minute or memorandum of every adjudication of the court; and

(b) a minute or memorandum of every other proceeding or thing required by the Act, these Rules or any other enactment to be so entered.

(3) The Register shall also contain the following particulars:

(a) on the summary trial of an information, the accused's plea;

(b) where a court tries any person summarily in any case in which he may be tried summarily only with his consent, the consent of that person and, if the consent is signified by a person representing him in his absence, that fact should also to be entered;

(c) where a person is charged before a magistrate's court with an offence triable either way, an entry to show whether that person was present when the proceedings for determining the mode of trial were conducted and, if they were conducted in his absence, whether they were so conducted by virtue of section 45(3) or 50(1) of the Act;

(d) in any case to which section 49 of the Act applies, the decision of the court as to the value involved or the fact that it is unable to reach such a decision, as the case may be;

- (e) where a court has power under section 89(3) of the Act to make an order with the consent of the defendant without hearing evidence, the consent of the defendant to the making of the order by the court;
- (f) in the case of a conviction or dismissal, a clear indication of the offence of which the accused is convicted or the offence charged in the information that is dismissed, as the case may be; and
- (g) the date of the offence where the entry is of a conviction.

(4) Particulars of any entry relating to a decision about bail or the reasons for any such decisions may be made in a book separate from that in which the entry recording the decision itself is made, but any such separate book shall be regarded as forming part of the Register.

(5) Every Register shall be open to inspection by the Registrar or any person authorised by the Registrar.

14. (1) Where the court on the occasion of convicting an offender of an offence issues a warrant of commitment for a default in paying a sum adjudged to be paid by the conviction or, having power to issue such a warrant, fixes a term of imprisonment under section 116 of the Act, the reasons for the court's action shall be entered in the Register or any separate record kept for the purpose of recording particulars of fine enforcement.

Particulars of
fine
enforcement.

(2) There shall be entered in the Register or some other record particulars of

- (a) any means enquiry under section 117 of the Act;
- (b) any allowance of further time for the payment of a sum adjudged to be paid by a conviction;
- (c) any direction that a sum under sub-paragraph (b) shall be paid by instalments;
- (d) any distress for the enforcement of such sum under sub-paragraph (b);

- (e) any attachment of earnings order for the enforcement of a sum under sub-paragraph (b);
- (f) an order under the Act placing a person under supervision pending payment of a sum under sub-paragraph (b);
- (g) an order under section 118(1) of the Act remitting the whole or any part of a fine;
- (h) an order under section 144(4) of the Act remitting the whole or any part of any sum enforceable under that section; and
- (i) a transfer of a fine or an order made by the court.

Statement to be sent on remand for medical inquiry.

15. Where the court exercises the powers conferred by section 57 of the Act, the court shall,

- (a) where the accused is remanded in custody, send to the institution or place to which he is committed; or
- (b) where the accused is remanded on bail, send to the institution or place at which he is to be examined or the person by whom he is to be examined,

a statement of the reasons why the court is of the opinion that an enquiry ought to be made into his physical or mental condition, and of any information before the court about his physical or mental condition.

Statement under section 34 to be sent to magistrate.

16. Where the prosecutor sends to the accused the statement of facts referred to in section 34(1) of the Act, he shall send a copy of the statement to the magistrate.

Receipt of statutory declaration.

17. Where the clerk of a magistrate's court receives a statutory declaration which complies with section 36(1) of the Act, he shall

- (a) note the receipt of the declaration in the Register against the entry in respect of the trial of the information to which the declaration relates; and
- (b) inform the prosecutor of the receipt of the declaration.

18. Where under section 52(3) or (7) of the Act a magistrate proceeds to try an information summarily, then, unless the accused pleads guilty, he shall recall for cross-examination any witnesses who have already given evidence, except any not required by the accused or the prosecutor to be recalled for that purpose.

Duty to recall witness.

Committal Proceedings

19. Committal proceedings shall be held without undue delay.

Committal proceedings.

20. An examining magistrate may, in his discretion,

General powers of examining magistrate.

(a) change the place of hearing if

(i) the absence of a witness is due to the inability of the witness who is too ill to attend at the place where the magistrate usually sits; or

(ii) for any other reasonable cause it appears desirable to do so,

and may remand the accused person if necessary; but the remand shall not be more than 8 days, the day following that on which the remand is made being counted as the first day;

(b) receive further evidence on the part of the prosecutor after hearing any evidence given on behalf of the accused person; and

(c) regulate the course of the enquiry in any way appearing to him desirable and not inconsistent with the provisions of the Act or of any other Act for the time being in force.

21. (1) This rule does not apply to committal proceedings where under section 20 of the Act a magistrate commits a person for trial without consideration of the evidence.

Taking depositions of witnesses.

(2) A magistrate enquiring into an offence as examining magistrate shall cause the evidence of each witness, including the evidence of the accused, but not including any witness of the accused merely to his character, to be put into writing; and, as soon as may be after the examination of the witness, shall cause his deposition to be read to him in the presence and hearing of the accused and shall require the witness to sign the deposition.

(3) Where the evidence has been given in the absence of the accused under section 17(3) of the Act, it shall be recorded on the deposition of the witness; and the deposition need not be read in the presence and hearing of the accused.

(4) The depositions shall be authenticated by a certificate signed by the examining magistrate.

(5) Where the accused is not represented by an attorney-at-law, before a statement made in writing by or taken in writing from a child is received in evidence under section 133(1) of the Act, the magistrate shall cause the effect of that provision to be explained to the accused in ordinary language and, if the defence does not object to the application of that provision, shall inform him that he may ask questions about the circumstances in which the statement was made or taken.

(6) A statement under paragraph (5) that is received in evidence shall be made an exhibit.

Statement of
accused.

22. (1) After the evidence for the prosecution including any statements tendered under section 132 of the Act, and after hearing any submission, the magistrate shall, unless he then decides not to commit for trial, cause the charge to be written down if this has not already been done, and if the accused is not represented by an attorney-at-law, the magistrate shall read the charge to him and explain it in ordinary language.

(2) After complying with paragraph (1), the magistrate shall ask the accused whether he wishes to say anything in answer to the charge and, if he is not represented by an attorney-at-law, shall before asking the questions say the following words to him or words to the following effect:

"You will have an opportunity to give evidence on oath before me and to call witnesses. But first I am going to ask you whether you wish to say anything in answer to the charge. You need not say anything unless you wish to do so. Anything you say will be taken down and may be given in evidence at your trial. You should take no notice of any promise or threat which any person may have made to persuade you to say anything."

(3) Whatever the accused says in answer to the charge shall be put into writing, read over to him and signed by the examining magistrate and also, if the accused wishes, by him.

(4) After paragraph (3) has been complied with, the magistrate shall say to the accused the following words or words to the following effect:

"I must warn you that if I commit you for trial you may not be permitted at that trial to give evidence of an alibi or to call witnesses in support of an alibi unless you give this court particulars of the alibi and of the witnesses. You may give those particulars now or to the prosecutor not later than 7 days from the end of these committal proceedings."

(5) Where if it appears to the magistrate that the accused may not understand the meaning of the term "alibi", he shall explain it to him; but the magistrate shall not be required to give this warning in any case where it appears to him that, having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

23. (1) After complying with the requirements of rule 22 relating to the statement of the accused, and whether or not he has made a statement in answer to the charge, the magistrate shall give him an opportunity to give evidence himself and to call witnesses.

Taking
evidence for
defence.

(2) Where the accused is represented by an attorney-at-law, his attorney-at-law shall be heard on his behalf, either before or after the evidence for the defence is taken, at his discretion, and may, if the accused gives evidence himself and calls witnesses, be heard on his behalf with the leave of the magistrate both before and after the evidence is taken; but where the magistrate gives leave to the attorney-at-law for the accused to be heard after, as well as before the evidence is taken, the attorney-at-law for the prosecution shall be entitled to be heard immediately before the attorney-at-law for the accused is heard for the second time.

(3) Where the magistrate determines to commit the accused for trial in respect of a charge that differs from that which was read to him in accordance with the provisions of rule 22(1), the magistrate shall cause the new charge to be read to him.

(4) Where the magistrate has given the warning required by rule 22 (4) to the accused, the clerk of the court shall give to the accused, in the Form 8, written notice of the provisions of section 158 of the *Evidence Act* in respect of the giving of notice of particulars of an alibi to the prosecutor.

Form 8.
Cap. 121.

Committal
for trial
without
consideration
of evidence.

24. (1) This rule applies to committal proceedings where the accused is represented by an attorney-at-law and the magistrate has been informed that all the evidence for the prosecution is in the form of written statements, copies of which have been given to the accused.

(2) A magistrate enquiring into an offence in committal proceedings to which this rule applies shall cause the charge to be written down, if this has not already been done, and read to the accused and shall then ascertain whether the accused wishes to

- (a) object to any of the prosecution statements being tendered in evidence;
- (b) give evidence himself or call witnesses; or

(c) submit that the prosecution statements disclose insufficient evidence to put him on trial by jury for the offence with which he is charged.

(3) Where the magistrate is satisfied that the accused or each of the accused, as the case may be, does not wish to take any of the steps mentioned in sub-paragraphs (a) to (c) of paragraph (2) and he determines, after receiving any written statements tendered by the prosecution and the defence under section 132 of the Act, to commit the accused for trial without consideration of the evidence, the magistrate shall proceed in accordance with rule 21.

(4) After complying with paragraph (3), the magistrate shall say the following words to the accused, or words to the following effect:

"You will be committed for trial by jury but I must warn you that at that trial you may not be permitted to give evidence of an alibi or to call witnesses in support of an alibi unless you have earlier given particulars of the alibi and of the witnesses. You may give those particulars now or at any time in the next 7 days to the prosecutor."

(5) The magistrate shall not be required to give a warning under paragraph (4) in any case where it appears to him that, having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

(6) Where the magistrate has given to the accused the warning required by paragraph (4), the clerk of the court shall give him written notice, in the Form 8, of the provisions of section 158 of the *Evidence Act* in respect of the giving of notice of particulars of an alibi to the prosecutor.

Cap. 121.
Form 8.

25. (1) The recognizance of a witness under section 30(1) of the Act shall be in the Form 9, and shall be made as soon as practicable after the accused has been committed for trial; but where, at the conclusion of the examination of a witness, the magistrate determines that the witness shall be bound over conditionally, he shall be bound over immediately after the deposition has been signed.

Binding over
witness to
attend trial.
Form 9.

(2) If a witness has been bound over pursuant to paragraph (1) and the magistrate determines not to commit the accused for trial, he shall give notice to the witness that he is no longer required to attend.

(3) A notice given under this rule shall be in writing and signed by the magistrate or the clerk of the court.

(4) A notice given under this rule shall be served by delivering it to the witness or by leaving it for him with some adult person at his last known or usual place of abode, or by sending it by post in a letter addressed to him at his last known or usual place of abode.

Application for summons to witness, etc. **26.** (1) An application for the issue of a summons or warrant under section 126 of the Act may be made by the applicant in person or by his attorney-at-law.

(2) An application for the issue of a summons under paragraph (1) may be made by delivering or sending the application in writing to the clerk of the magistrate's court for submission to a magistrate.

General

Marking exhibits. **27.** The magistrate shall cause all writings and other articles exhibited by the witnesses to be inventoried and labelled or otherwise marked in the presence of the person producing them, so that they may be identified at the trial.

Procuring attendance at trial of witness bound over conditionally. **28.** (1) Where in pursuance of section 30(2) of the Act a witness has been or is treated as having been bound over conditionally upon notice being given to him to attend the trial of a person committed for trial, then, if the prosecutor or the person committed for trial gives notice to

- (a) the clerk of the magistrate's court that committed him at any time before the opening day of the sitting of the court before which that person is to be tried; or
- (b) to the Registrar at any time thereafter,

that he wishes the witness to attend the trial, the clerk to whom the notice is given or the Registrar (in this rule referred to respectively as the "notifying clerk") shall forthwith give notice in writing to the witness that he is required to so attend in pursuance of his recognizance.

(2) A notice by the notifying clerk under paragraph (1) shall be served by delivering it to the person to whom it is directed or by leaving it for him with some person at his last known or usual place of abode.

(3) Where the time does not permit the notice to be served in the manner specified in paragraph (1), the notifying clerk may notify the witness in such manner as may be most expedient in the circumstances.

(4) Where the notifying clerk gives notice to a witness under this rule at the direction of the prosecutor, the clerk shall inform the person committed for trial thereof; and when he gives notice at the direction of the person committed for trial, he shall inform the prosecutor thereof.

29. (1) A notice to an accused person pursuant to section 24 of the Act shall state the date on which, and the time and place at which, he shall appear before the Supreme Court; and the notice shall be served by delivering it to him personally, or if personal service cannot be effected, by leaving it with some adult person for him at his last known or usual place of abode.

Notice to
accused
person to
appear for
trial.

(2) The person serving the notice shall make a return of the date, time, place and manner of service.

30. (1) As soon as practicable after the committal of any person for trial, the clerk of the court that committed him shall send the documents listed in sub-paragraphs (a) to (k) and one copy of the documents to the Registrar, and 2 copies to the Director of Public Prosecutions:

Transmission
of documents
relating to
cause.

(a) the information, if it is in writing;

- Form 11. (b) the depositions and written statements tendered in evidence, together with a certificate in the Form 11 authenticating the depositions and statements;
- (c) all statements made by the accused before the magistrate;
- (d) a list of the names, addresses and occupations of the witnesses who have been bound over;
- (e) any recognizance entered into by any person as surety for the accused, together with a statement of any enlargement thereof under section 219 of the Act;
- (f) a list of the documents and articles produced in evidence before the magistrate or treated as so produced;
- (g) such of the documents and articles referred to in sub-paragraph (f) as have been retained by the magistrate;
- (h) if the committal was under section 20 of the Act, a statement to that effect;
- Cap. 121. (i) a certificate showing whether the accused was informed at the committal proceedings of the requirements of section 158 of the *Evidence Act* in respect of alibis, and a record of any particulars given by him to the magistrate under that section;
- (j) the certificate of the magistrate as to costs of prosecution; and
- Cap. 138. (k) if any person under the age of 16 is concerned in the committal proceedings, a statement whether the magistrate has given a direction under section 3(6) of the *Juvenile Offenders Act* that prohibits the publication of certain matters in newspapers.
- (2) The clerk shall retain a copy of any list sent pursuant to paragraph (1)(d).
- (3) All exhibits, other than documentary exhibits, shall, unless the magistrate otherwise directs, be taken charge of by the police, who shall produce them at the trial.

31. (1) The person having custody of the depositions on which any person has been committed for trial shall, as soon as is practicable, supply copies of the depositions to the accused free of charge. Supply of copies of depositions to accused.

(2) The copies of the depositions referred to in paragraph (1) shall be supplied by the person having custody of the depositions, and shall be served by that person on the accused or shall be served by having them left with an adult person at the last known or usual place of abode of the accused.

(3) Where time does not permit the depositions to be served in the manner specified in paragraph (2), the person having custody of the depositions may notify the accused in such manner as may be most expedient in the circumstances.

(4) Where the person having custody of the depositions supplies them to the accused under this rule, he shall inform the prosecutor of that fact; and shall provide proof of having supplied them.

32. (1) A magistrate who takes the deposition of a person under section 135 of the Act shall give the person, whether prosecutor or accused, against whom it is proposed to use it, reasonable notice of the intention to take the deposition, and shall give that person or his attorney-at-law full opportunity of cross-examining the deponent. Deposition of person dangerously ill.

(2) The magistrate shall sign the deposition and add to it a statement of his reason for taking it, the day when and the place where it was taken, and the names of any persons present when it was taken.

(3) Every deposition taken under section 135 of the Act shall, if it was taken by some other magistrate, be transmitted to the examining magistrate by whom the committal proceedings into the indictable offence is being or has been held; and it shall be treated in all respects in the same way, and shall be considered for all purposes, as a deposition taken upon the committal proceedings.

(4) Any deposition taken under section 135 of the Act may be given in evidence at the trial of any person accused of any offence to which the facts stated in the deposition relate if

- (a) at the trial, it is proved either by a certificate purporting to be signed by the magistrate before whom the deposition purports to have been taken or by the oath of a credible witness that the deposition was taken in the presence of the accused person or the prosecutor, as the case may be, and that he or his attorney-at-law had full opportunity of cross-examining the deponent; and
- (b) the deposition purports to be signed by the magistrate before whom it purports to have been taken.

Remand on bail for more than 8 days.

33. Where the court, with a view to a person being remanded on bail under paragraph (a) of section 218(6) of the Act for a period exceeding 8 days, has fixed the amount of the recognizances to be taken for that purpose but commits that person to custody because the recognizances of the sureties have not yet been taken, the warrant of commitment shall direct the Superintendent or the officer in charge of the place to which he is committed to bring him before the court at the end of 8 clear days or at such earlier time as may be specified in the warrant, unless in the meantime the sureties have entered into their recognizances.

Written statements in committal proceedings or summary trial.
Cap. 121.
Form 12.

34. (1) Written statements to be tendered in evidence under section 132 of the Act or section 154 of the *Evidence Act* shall be in the Form 12.

(2) When a copy of a statement to which paragraph (1) refers is given to or served on any party to the proceedings, a copy of the statement and of any exhibit that accompanied it shall be given to the clerk of the court as soon as practicable thereafter; and where a copy of any such statement is given or served by or on behalf of the prosecutor, the accused shall be given notice of his right to object to the statement being tendered in evidence.

(3) Where before an examining magistrate the accused objects to a written statement being tendered in evidence and he has been given a copy of the statement but has not given notice of his intention to object to the statement being tendered in evidence, the magistrate shall, if necessary, adjourn the proceedings to enable the witness to be called.

(4) Where a written statement to be tendered in evidence under section 132 of the Act or section 154 of the *Evidence Act* refers to any document or object as an exhibit, that document or object shall, wherever possible, be identified by means of a label or other mark of identification signed by the maker of the statement; and before a magistrate treats any document or object referred to as an exhibit in the written statement as an exhibit produced and identified in court by the maker of the statement, the magistrate shall be satisfied that the document or object is sufficiently described in the statement for it to be identified. Cap.121.

(5) If it appears to the magistrate that any part of a written statement tendered in evidence

(a) under section 132 of the Act is inadmissible, there shall be written against that part "Treated as inadmissible, A.B., Examining Magistrate"; or

(b) under section 154 of the *Evidence Act* is inadmissible, there shall be written against that part "Ruled inadmissible, A.B., Examining Magistrate". Cap. 121.

(6) Where a written statement is tendered in evidence under section 132 of the Act or section 154 of the *Evidence Act* before a magistrate, the name and address of the maker of the statement shall be read aloud unless the magistrate otherwise directs. Cap.121.

(7) Where under section 132(5) of the Act or section 154 of the *Evidence Act* in any proceedings before a magistrate any part of a written statement has to be read aloud or an account has to be given orally of so much of any written statement as is not read aloud, the statement shall be read or the account given by or on behalf of the party who has tendered the statement in evidence. Cap.121.

Form 12. (8) Written statements tendered in evidence under section 132 of the Act before an examining magistrate shall be authenticated by a certificate signed by him in the Form 12.

Form 13. (9) A notice served on the accused under this rule shall be in the Form 13.

Proof of service. **35.** The service on any person of a summons, process, notice or document required or authorised to be served in any proceedings before a magistrate's court, and the handwriting or seal of a justice of the peace or other person on any warrant, summons, notice, process or documents issued or made in any such proceedings, may be proved in any legal proceedings by a document purporting to be a solemn declaration in Form 14 made before a magistrate, a justice of the peace or the Registrar.

Proof of previous convictions. **36.** Service on any person of a notice of intention to cite previous convictions under section 134 of the Act may be effected by delivering it to him or by sending it by post in a registered letter or by recorded delivery service addressed to him at his last known or usual place of abode.

Notification of conviction before expiration of period of deferment. **37.** Where under section 60 of the Act a court has deferred passing sentence on an offender and before the expiration of the period of deferment he is convicted of any offence by a magistrate's court, the clerk of the court shall, if the court which deferred passing sentence on the earlier occasion was another magistrate's court, give notice of the conviction to the clerk of that magistrate's court.

Notice to defendant of fine etc. **38.** (1) Where a magistrate's court allows time for payment of a sum adjudged to be paid on a summary conviction or directs that the sum be paid by instalments, or where the offender is absent when a sum is adjudged to be paid on a summary conviction, the clerk of the court shall serve on the offender notice in writing stating the amount of the sum and, if it is to be paid by instalments, the amount of the instalments, the date on which the sum or each of the instalments is to be paid and the place and time at which payment may be made.

(2) A warrant of distress or commitment shall not be issued until the provisions of paragraph (1) have been complied with.

(3) A notice under this rule shall be served by delivering it to the accused or by sending it to him by post in a letter addressed to him at his last known or usual place of abode.

39. (1) Subject to paragraph (2), a person adjudged by the conviction or order of a magistrate's court to pay any sum shall pay that sum to the clerk of the court.

Officers to whom payments are to be made.

(2) Where for the purpose of reducing his period of detention pursuant to section 113 of the Act a person wishes to make an instalment of a sum imposed, he shall make the payment,

(a) unless the warrant of distress or commitment has been issued, to the clerk of the court that imposed the imprisonment or detention;

(b) to the officer holding the warrant of distress or commitment; or

(c) to the officer in charge of the prison.

(3) Where any instalment is made, a note or endorsement of the receipt of the sum shall be made on the warrant.

40. The clerk of a magistrate's court shall give or send a receipt to any person who makes a payment to him in pursuance of a conviction or order of a magistrate's court.

Clerk to give receipt.

41. An application under section 109(2) of the Act may, unless the court requires the applicant to attend, be made in writing.

Application for further time.

42. A magistrate shall not commit any person to a prison, a reformatory school or other place of detention, except by a warrant of commitment.

Committal to custody to be by warrant.

Warrant to be signed. **43.** Every warrant under the Act shall be signed by the magistrate issuing it.

Warrant of arrest. **44.** (1) A warrant issued by a magistrate for the arrest of any person shall require the officers of the Police Force, or the persons to whom it is directed, to arrest the person against whom the warrant is issued.

(2) The warrant shall name or otherwise describe the person for whose arrest it is issued, and shall contain a statement of the offence charged in the information or the ground on which the warrant is issued, as the case may be.

Warrant of commitment. **45.** (1) A warrant of commitment issued by a magistrate shall

- (a) name or otherwise describe the person committed;
- (b) contain a statement of the offence of which the person committed is charged, or of which he has been convicted or of any other ground on which he is committed;

(c) be directed to a person named in the warrant or to the officers of the Police Force and to the Superintendent or the officer in charge of the place of detention specified in the warrant and shall require

- (i) the named person or the officers of the Police Force to arrest the person committed, if he is at large, and convey him to the prison or place of detention and deliver him with the warrant to the Superintendent or officer in charge of the place of detention; and
- (ii) the Superintendent or officer in charge of the place of detention to keep in his custody the person committed until that person be delivered in due course of law or until the happening of an event specified in the warrant or for the period specified in the warrant, as the case may be.

(2) A warrant of commitment may be executed by conveying the person committed to any prison or place of detention in which he may lawfully be detained and delivering him there together with the warrant.

(3) Where any person is lawfully detained in a prison or place other than that specified in the warrant, the warrant shall have effect as if that prison or place were the prison or place specified in the warrant.

(4) Notwithstanding paragraph (1), a warrant of commitment issued in pursuance of a valid conviction or of a valid order requiring the person committed to do or abstain from doing anything shall not, if it alleges that the person committed has been convicted or ordered to do or abstain from doing that thing, be held void by reason of any defect in the warrant.

(5) The Superintendent or person in charge of a place of detention at which any person is delivered in pursuance of a warrant of commitment, shall give to the police officer or other person making the delivery, a receipt for that person.

(6) Notwithstanding paragraphs (1) to (5), a warrant of a magistrate to commit to custody any person who to the magistrate's knowledge is already detained in a prison or in some other place of detention shall be delivered to the Superintendent or the person in charge of the place of detention in which that person is detained.

Appeal to Court of Appeal

46. (1) Where pursuant to section 240(1) of the Act a person gives notice of appeal verbally, he shall do so either personally or by his attorney-at-law. Form of
notice of
appeal.

(2) A written notice of appeal shall be in the Form 24. Form 24.

47. Notice of grounds of appeal shall be in the Form 25. Form of
notice of
grounds of
appeal.
Form 25.

Form of recognizance.
Form 26.

48. (1) The recognizance to be entered under section 245 of the Act shall be in the Form 26.

Form 26.

(2) The recognizance to be entered under section 266(2) of the Act shall be in the Form 26.

Service of notice and grounds of appeal.

49. The certified copies of a notice of appeal and of the grounds of appeal which are required by section 248 of the Act to be transmitted or served on a respondent may be served on him or on his attorney-at-law either personally or by registered post.

Documents comprising record for appeal.

50. The record of the proceedings transmitted to the Registrar under section 246(1) of the Act shall comprise the following:

- (a) the complaint, information or charge sheet and plea;
- (b) the notes of evidence taken in the case;
- (c) the adjudication;
- (d) the formal conviction or order;
- (e) the notice of appeal;
- (f) the notice of the grounds of appeal;
- (g) any recognizance;
- (h) all documentary exhibits; and
- (i) all other documents connected with the case, including the magistrate's statement of his reasons for decision.

Certificate of costs.

51. The Registrar shall, at the time he notifies the clerk of the result of the appeal, forward a certificate of any costs granted.

Case Stated

52. (1) An application under section 266(1) of the Act shall be made in writing and shall be signed by or on behalf of the applicant and shall identify the questions of law or jurisdiction on which the opinion of the Court of Appeal is sought. Application to state case.

(2) Where one of the questions on which the opinion of the Court of Appeal is sought is whether there was evidence on which the magistrate's court could come to its decision, the particular finding of fact made by the magistrate's court which it is claimed cannot be supported by the evidence before the magistrate's court shall be specified in the application.

(3) An application under paragraph (1) shall be given or sent to the clerk of the magistrate's court whose decision is questioned.

53. (1) A case stated by the magistrate's court shall state the facts found by the court and the questions of law or jurisdiction on which the opinion of the Court of Appeal is sought. Content of case.

(2) Where one of the questions on which the opinion of the Court of Appeal is sought is whether there was evidence on which the magistrate's court could come to its decision, the particular finding of fact which it is claimed cannot be supported by the evidence before the magistrate's court shall be specified in the case.

(3) Unless one of the questions on which the opinion of the Court of Appeal is sought is whether there was evidence on which the magistrate's court could come to its decision, the case shall not contain a statement of evidence.

Miscellaneous

54. The forms set out in the *First Schedule* shall be used for the purposes to which they relate. Forms. First Schedule.

Fees and costs. Second Schedule. **55.** The fees and costs set out in the Table in the *Second Schedule* shall be paid to the clerk of every magistrate's court in respect of the several matters therein mentioned.

Revocation. L. N. 1958 No. 51. **56.** The *Magistrate's Court (Criminal Procedure) Rules, 1958* are revoked.

ARRANGEMENT OF FORMS

1. General Heading
2. Summons
3. Summons to fine defaulter
4. Summons to witness
5. Information
6. Register
7. Statement of Accused
8. Notice of provisions under section 158 of the *Evidence Act*
9. Recognizance to attend trial
10. Recognizance to prosecute Accused
11. Certificate of authentication of depositions and statements of witnesses
12. Statement of Witness under section 132
13. Notice to Accused: Proof by written statement under section 132
14. Declaration of service

15. Declaration as to handwriting and seal
16. Certificate of service
17. Certificate of service by post
18. Distress warrant: Forfeited recognizance
19. Warrant of arrest
20. Warrant for arrest of witness on failure to appear to summons
21. Warrant of Commitment: Sentence of imprisonment
22. Warrant of Commitment on remand for medical examination
23. Warrant of Commitment: Committal to High Court for sentence
24. Notice of appeal
25. Notice of grounds of appeal
26. Recognizance to prosecute an appeal or a case stated
27. Conviction order
28. Case stated
29. Order of recognizance to keep the peace
30. Notice to defendant: Plea of guilty in absence
31. Statement of facts
32. Order to bring up prisoner
33. Certificate of non-payment of sums adjudged
34. Declaration as to non-payment of sums adjudged

FIRST SCHEDULE

(Rule 54)

FORMS

Form 1

General Heading

BARBADOS

IN THE MAGISTRATE'S COURT FOR DISTRICT

Criminal Jurisdiction

A.B.

Complainant/Informant

V

C.D.

Defendant

Form 2

Summons

(Section 12; rule 4)

[Heading as in Form 1]

Date:

To the accused:

of:

You are hereby summoned to appear on at a.m./p.m. before the Magistrate's Court for District to answer to [the following information] the information of which particulars are given in the Schedule hereto.]

[Alleged Offence:

]

Prosecutor:

Address:

Date of information:

Magistrate

Schedule

Date of information	Alleged offence (particulars and statute)
---------------------	---

Form 3

(Sections 116, 117; rule 4)

Summons to fine defaulter

[Heading as in Form 1]

Date:

To the accused:

Address:

Convicted on:

by the : Magistrate's Court for District

Offence: *(short particulars and statute)*

Ordered to pay:	\$	fine
	\$	compensation
	\$	costs

Total \$

Payments made \$

Amounts still outstanding: \$

You have failed to pay the amount shown above as still outstanding. You are therefore hereby summoned to appear before the Magistrate's Court at District at.....a.m./p.m., unless the above amount has been paid in full beforehand, for inquiry to be made as to your means.

Magistrate

NOTE: *The purpose of the inquiry as to your means is to enable the Court to decide whether or not to commit you to prison for default in payment. If you do not pay the outstanding amount in full and fail to appear in person in answer to this summons, you will render yourself liable to arrest without further notice.*

Form 4

(Section 126; rule 4)

Summons to witness

[Heading as in Form 1]

Date:

To:

of:

You are hereby summoned to appear on at
before the Magistrate's Court at District to [give evidence]
[and] [produce the document[s] or thing[s] specified in the Schedule
hereto] at the hearing of the following case:

[Informant:]

[Complainant:]

against

Defendant:

for

[Alleged Offence:]

[Complaint]

Magistrate or Clerk of the Court

SCHEDULE OF DOCUMENTS OR THINGS TO BE PRODUCED

Form 5

(Section 12; rule 7)

Information

[Heading as in Form 1]

Date:

Accused:

Address:

Alleged offence: *(short particulars and statute)*

The information of:

Address: Telephone No.

who [upon oath] states that the accused committed the offence of which particulars are given above.

Taken [and sworn] before me

Magistrate

Form 6

(Section 2; rule 13)

Register

IN THE MAGISTRATE'S COURT FOR DISTRICT

The day of 20 .

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Number	Name of informant or complainant	Name of defendant age, if known	Nature of offence or matter of complaint	Date of offence or matter of complaint	Plea or consent to order	Minute adjudication	Time allowed for payment and installments

(Signature)

Magistrate

[or Clerk of the Court present during these proceedings.]

Form 7

Statement of Accused

(Rule 22(3))

[Heading as in Form 1]

Date:

Accused:

Address:

The Accused was charged with the offence(s) set out in Schedule 1 to the certificate herewith

And the evidence for the prosecution having been given and the charges having been read and explained to the accused [the accused was addressed by the court in accordance with rule 22(2) of the *Magistrate's Courts (Criminal Procedure) Rules, 2001* and asked whether he wished to say anything in answer to the charge(s)]

The accused, being represented was asked whether he wished to say anything in answer to the charges(s)]

Statement: Whereupon the accused [said:-] [made no reply]

[and this statement was read over to the accused who was given an opportunity to sign it].

And the accused was given an opportunity to give evidence and to call witnesses.

Taken before me

Magistrate

Form 8

(Rules 23(4), 24(6))

IN THE MAGISTRATE'S COURT FOR DISTRICT

*Notice of provisions under section 158
of the Evidence Act, Cap. 121*

PARTICULARS OF ALIBI

To A.B., of

If you wish to raise an alibi defence at your trial you should read this notice carefully and if you intend to consult an attorney-at-law you should show it to him at once.

Section 158 of the *Evidence Act*, Cap. 121 provides that an accused who is tried before a jury may not (without the leave of the court) give evidence himself, or call witnesses in support, of an alibi unless he has given particulars of the alibi and of the witness as required by that section. To comply with section 158 the accused must

- (a) give notice of the particulars in the magistrate's court (the time for doing this has passed in your case) or *to the prosecutor before the end of the period of 7 days from the end of the proceedings in the magistrate's court; and*
- (b) include in the notice particulars of the alibi and the name and addresses of any witness whom he proposes to call in support of the alibi.

If the accused is unable to give the name and address of the witness in the notice, he must include in it any information in his possession which might help to find the witness and must take all reasonable steps to enable the name and address to be discovered. If the name or address of a witness was not included in the notice but the accused subsequently discovers the name or address or other information that might help to find the witness, he must immediately give notice to the prosecutor of the name, address or other information. If the accused is notified by or on behalf of the prosecutor that a witness has not been traced by the name or at the address given by the accused, he must forthwith give notice to the prosecutor of any information then in his possession or subsequently received by him which might help to find the witness.

Any notice required to be given by the accused to the prosecutor as mentioned above must be in writing and delivered to the clerk of the magistrate's court or left at the office of the clerk or sent in a registered letter or by the recorded delivery service addressed to the clerk of the court who shall forward the same to the prosecutor as soon as possible.

"Evidence in support of an alibi" means:

"Evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission."

The name and address of the prosecutor in your case is

Clerk of the Magistrate's Court sitting at District

Form 9

Recognizance to attend trial

(Section 30(1); rule 25)

[Heading as in Form 1]

Date:

To:
(Witness)

Address:

Order: That you attend and give evidence at the trial of
(accused) at the High Court.

Magistrate

NOTE: *Failure to comply with this order may render you liable to imprisonment for 3 months or to a fine. You will be notified of the date and time at which you are to attend by the appropriate officer of the Court, to whom any inquiry should be addressed.*

Form 10

Recognizance to prosecute Accused

(Section 30(1))

[Heading as in Form 1]

Date:

To:
(Prosecutor)

Address:

Offence:

Order: That you prosecute a bill of indictment against the
accused and appear and give evidence at the trial of the
accused.

Magistrate

Form 11

(Rule 30(1)(b))

IN THE MAGISTRATE'S COURT FOR DISTRICT

Certificate of authentication of depositions and statements of witnesses

Before the Examining Magistrate at District _____,

A.B. having been committed for trial to the High Court charged with the offence[s] specified in the Schedule hereto.

[I hereby certify that the depositions of the _____ *(state number)* witnesses whose names are listed in the manner set out in Part II of the Schedule hereto were taken and sworn before me in the presence and hearing of the said A.B. on the _____ day of _____, _____, [and the _____ day of _____, _____,] and that he/she or his/her attorney-at-law had full opportunity of cross-examining each of the witnesses called for the prosecution.

[I hereby [further] certify that the _____ *(state number)* statements purporting to be signed by the persons whose names are listed in Part III of the Schedule were tendered in evidence under section 132 of the *Magistrate's Courts Act, 1996* in the said proceedings.]

Dated the _____ day of _____.

Examining Magistrate

SCHEDULE

Part I

(Specify charge(s) on which accused was committed)

Part II

DEPOSITIONS

Name and address and occupation of witness	Witness order	Page No.

Part III

WRITTEN STATEMENTS

Name and address and occupation of witness	Witness order	Page No.

Form 12

(Section 132; rule 34(1), (8))

IN THE MAGISTRATE'S COURT FOR DISTRICT

Criminal Jurisdiction

Statement of Witness under section 132

STATEMENT OF _____ *(name of witness)*

Age of witness:

Occupation of witness:

Address:

This statement, [consisting of _____ pages each signed by me,] is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Dated the _____ day of _____, _____ A.B.

[A.B. being unable to read the above statement I, C.D. of _____, read it to him before he signed it.

Dated the _____ day of _____, _____ A.B.

.....]C.D.

NOTE: Wherever possible statements should be on foolscap paper. If statements are typed, double spacing should be used. One side only of the paper should be used; a space should be left at the top of the first page for headings to be entered by the clerk of the court; and each page should have a wide margin on the left.

Form 13

(Section 132; rule 34(9))

IN THE MAGISTRATE'S COURT FOR DISTRICT

Criminal Jurisdiction

Notice to Accused: Proof by written statement under section 132

To A.B. of

On the day of , , the magistrate sitting at
will hear evidence relating to the following charge[s] against you.

This offence [or these offences] may only be tried before a jury [or may be tried by the Magistrate]

Written statements have been made by the witnesses named below and copies of their statements are enclosed. Each of these statements will be tendered in evidence before the Magistrate unless you want the witness to give oral evidence. If you want any of these witnesses to give oral evidence you should inform me as soon as possible. If [you do not do so within 7 days of receiving this notice and the offence(s) is/are tried by the Magistrate you will lose your right to prevent the statement being tendered in evidence and you will be able to require the attendance of the witness only with the leave of the Magistrate. If the offence[s] is/are not tried by the Magistrate, this time limit will not apply but if] you have not informed me that you want the witness to attend he will not be present when you appear before the Magistrate and delay and expense will be caused if he has then to be called.

[²A[prepaid] reply form [and prepaid envelope] is/are enclosed and it will help to save time and expense if you reply whether or not you wish any of these witnesses to give oral evidence.

If you intend to consult an attorney-at-law about your case you should do so at once and hand this notice and the statements to him so that he may deal with them.]

Names of witnesses whose statements are enclosed -

Address and reply to:-

(Signed).....

On behalf of the Prosecutor

¹Omit if offence cannot be tried by magistrate's court

²Omit if documents are sent to accused's attorney-at-law.

Form 14

(Rule 35)

Declaration of service

I, X. Y., of _____, hereby solemnly declare that
I did on the _____ day of _____, _____, serve A.B.
of _____, with the summons (or other document as the case may
be), of which a true copy is now shown to me and marked A, by delivering the said
summons to him/her [or by leaving the said summons for him/her with
_____, being the said A.B.'s last known
[or usual place of abode].

X.Y.

Declared before me the _____ day of _____, _____.

Justice of the Peace
(Or other description)

Form 15

(Rule 35)

Declaration as to handwriting and seal

I, X.Y., of _____, hereby solemnly
declare that the signature to the document now produced and shown to me, and
marked A, is in the handwriting of _____
of _____
[and that the seal on the said document is the seal of].

Declared before me the _____ day of _____, _____.

Justice of the Peace
(Or other description)

Form 16

(Rule 35)

Certificate of service

(Endorsement)

I, X.Y., of _____, hereby
certify that on the _____ day of _____,
I served A.B., of _____, with the summons
(or other documents, as the case may be), of which this is a true copy, by delivering
the said summons to him/her personally [together with the sum of \$
for costs and expenses] [or and that I tendered to him/her the sum of \$
for costs and expenses]

[or by leaving the said summons for him/her [, together with the sum of \$
for costs and expenses,] with _____ at
being the said A.B.'s last known [or usual] place of abode [or business]].

Dated the _____ day of _____, _____.

X.Y.

Form 17

(Rules 5, 35)

Certificate of service by post

(Endorsement)

I, X.Y., of _____,
hereby certify that I served A.B. with the summons (*or other documents, as the
case may be*), of which this is a true copy, by sending the said summons by post [or
by the recorded delivery service] to him/her in a prepaid [registered] letter posted
by me at the _____ Post Office situate
at _____
at _____ o'clock in the _____ morning/afternoon on the _____
day of _____, _____, and addressed to A.B. at
_____ address given by him/her for the
purpose of service].

Dated the _____ day of _____, _____.

X.Y.

Form 18

(Sections 110, 144; rule 44)

Distress warrant: Forfeited recognizance

[Heading as in Form 1]

Date:

Defendant:

Address:

Date of order:

Amount of
recognizance: \$

Duration of
recognizance: *(state condition breached)*

Decision: That the defendant broke the above condition of the
recognizance and that the recognizance should be
forfeited.

Order: The defendant should pay \$

Costs: \$

Notice of the forfeiture having been served on the
defendant and default in the following amount having
been made in payment:

Amount still
outstanding: \$

Direction: You the Chief Marshal are hereby required to immediately make distress of the money and goods of the accused to the value of \$.....; and if the amount shown above as still outstanding together with the costs and charges of taking and keeping the distress are not paid, then not earlier than the sixth day after making of the distress, to sell the goods and pay the proceeds of the distress to the Clerk of the Magistrate's Court for District; and if no sufficient distress can be found, to so certify to the court named herein.

Magistrate

Form 19

(Sections 12, 35, 141; rule 44)

Warrant of arrest

[Heading as in Form 1]

Date:

Accused:

Address:

Alleged offence:

(short particulars and statute)

Information having been laid before me on [oath]/affirmation] by

..... on

.....
that the accused committed the above offence

Direction:

You the officers of the Police Force are hereby required to arrest the accused and to bring the accused before the Magistrate's Court for District immediately [*unless the accused is released on bail as directed below*].

*Bail:

On arrest after complying with the conditions specified in Schedule I hereto, the accused shall be released on bail, subject to the conditions specified in Schedule II hereto, and with a duty to surrender to the custody of the court specified above on at a.m./p.m.

Magistrate

**Delete if bail is not granted*

SCHEDULE I

*Conditions to be complied with before release on bail **

SCHEDULE II

*Conditions to be complied with after release on bail**

*Insert condition(s) as appropriate (including in Schedule I directions under rule 7(2) in respect of any pre-release conditions).

Form 20

(Sections 126, 141; rules 43, 44)

Warrant for arrest of witness on failure to appear to summons

[Heading as in Form 1]

Date:

Witness:

Address: The witness having been summoned to appear before this court
 on (date) at (time) to
[give evidence] [and] [produce the document[s] or thing[s] specified in the
Schedule to the summons] at the hearing of the following case:

[Informant:]

[Complainant:]

Defendant: against
 for

[Alleged Offence:]

[Complainant:] And the witness having failed to answer the summons.

Direction: You the officers of the Police Force are hereby required to
arrest the witness and to bring the witness before the
Magistrate's Court for District immediately
[*unless the accused is released on bail as directed below*].

*Bail: On arrest the witness shall be released on bail on entering
into a recognizance in the sum of \$ with suret[y][ies]
in the sum of \$ [each] for the witness's appearance
before the above magistrate's court on
 (date) at (time).

Magistrate

*Delete if bail is not granted.

Form 21

(Rule 45)

Warrant of Commitment: Sentence of imprisonment

[Heading as in Form 1]

Date:

Accused:

Age:

years

Address:

Offence:

(Short particulars and statute)

The accused was on
above offence.

(date) convicted of the

Decision:

That the accused be imprisoned for

(state period).

Direction:

You the officers of the Police Force are hereby required to convey the accused to
Prison and there deliver the accused to the Superintendent thereof, together with this warrant; and you the Superintendent, to receive into your custody and keep the accused for the said period.

Magistrate

SCHEDULE I

Conditions to be complied with before release on bail

To provide suret[y][ies] in the sum of \$
[each] to secure the accused's surrender to custody at the
time and place appointed*

SCHEDULE II

Conditions to be complied with after release on bail

To undergo medical examination by (*number*)
duly qualified medical practitioner[s]. To attend [at (*name*
hospital or other place) or (*name medical practitioner[s]*)]
for the purpose of such a medical examination *

**Insert condition(s) as appropriate*

Form 24

(Rule 46)

Notice of appeal

IN THE COURT OF APPEAL

On appeal from the Magistrate's Court for District

Criminal Jurisdiction

A.B.

Appellant

V

C.D.

Respondent

Take notice that this Court will be moved on a day and at an hour of which you shall be informed by the Registrar
behalf of the *concisely the object of the appeal*.
Attorney-at-law on
(as may be) that (*here state*)

Dated this _____ day of _____

A.B., Appellant,
or
E.F., Attorney-at-Law
for Appellant.

To

CD
of _____
and
G.H., Esquire,

The Magistrate of the above-named Magistrate's Court.

Form 25

(Section 244; rule 47)

Notice of grounds of appeal

IN THE COURT OF APPEAL

On appeal from the Magistrate's Court for District

Criminal Jurisdiction

[Heading as in Form 24]

Take notice that the following are the grounds of appeal herein, notice whereof was given in the magistrate's court on the day of , (or notice whereof is dated the day of and was served on day of).

(Here follow the grounds of appeal.)

Dated this day of .

A.B., Appellant,
or
E.F., Attorney-at-Law
for Appellant.

To

CD
of
and
G.H., Esquire,

The Magistrate of the above-named Magistrate's Court.

Form 26

(Sections 245, 266(2); rule 48)

Recognizance to prosecute an appeal or a case stated

IN THE COURT OF APPEAL

On appeal from the Magistrate's Court for District

Criminal Jurisdiction

[Heading as in Form 24]

CONDITIONS: The principal shall prosecute without delay the principal's appeal to the Court of Appeal from the following decision:

Magistrate's Court
Offence/order and date
Decision subject to appeal

and shall submit to the judgment of the Court of Appeal and pay such costs as may be awarded by the Court of Appeal [and, unless the decision appealed against is reversed, appear before the above Magistrate's Court within _____ days after the judgment is given*]. This recognizance shall then be void but otherwise shall remain in force.

Principal:

Address:

I acknowledge my obligation to pay the court the sum of \$ _____ if I _____ fail to comply with the conditions specified above.

Signature

Surety:

Address:

I acknowledge my obligation to pay the court the sum of \$ _____ if the principal fails to comply with the conditions specified above.

Signature.....

**Delete if the principal is not to be released on bail.*

Form 28

(Section 266)

Case stated

BARBADOS

IN THE COURT OF APPEAL

CASE STATED BY THE MAGISTRATE FOR DISTRICT

Criminal Jurisdiction

BETWEEN

A.B.

Appellant

AND

C.D.

Respondent

CASE

1. On the _____ day of _____, _____, an information [or complaint] was preferred by the appellant [or respondent] against the respondent [or appellant] that he/she (*state briefly particulars of information or complaint and refer to any relevant statutes*).

2. I heard the said information [or complaint] on the _____ day of _____, _____, and found the following facts: (*set out in separate lettered paragraphs*).

^a[The following is a short statement of the evidence: (*set out so as to show relevant evidence given by each witness*)].

^b3. It was contended by the appellant that

^b4. It was contended by the respondent that

5. The Court was referred to the following cases.

6. The Court was of opinion that (*state grounds of decision*) and accordingly (*state decision including any sentence or order*).

Question

7. The question for the opinion of the Court of Appeal is

Dated the _____ day of _____,

E.F.,
G.H.,

Magistrate

^a*Insert only if the opinion of the Court of Appeal is sought whether there was evidence upon which the Magistrate's Court could come to its decision*

^b*Only a brief summary should be given.*

Form 29

(Sections 138, 139)

Order of recognizance to keep the peace

[Heading as in Form 1]

Date:

Defendant:

Address:

Complainant:

Address:

Complaint: *(short particulars and statute)*

Decision:

*Order: That the defendant enter immediately, into a recognizance of \$ _____ with suret[y] [ies] of \$ _____ [each] to [keep the peace] [be of good behaviour], particularly towards the complainant, for the period of _____ *(state period)* from the date of this order.

That in default of such recognizance[s] being entered into, the defendant be conveyed to Prison and there be detained for *(state period)* unless the defendant sooner complies with this order.

Magistrate

**Add details of order as to costs*

Form 30

(Section 34)

Notice to defendant: Plea of guilty in absence

To A.B., of

PLEASE READ THIS NOTICE CAREFULLY

If you admit the offence[s] referred to in the summons[es] served herewith and do not wish to appear before the Court, it is open to you under section 34 of the *Magistrate's Courts Act, 1996*, to inform the Clerk of the Court in writing that you wish to plead guilty to the charge[s] without appearing. If you decide to do this, you should write to the Clerk in time for him to receive your reply at least 3 days before the date fixed for the hearing in order to avoid the unnecessary attendance of witnesses. In writing to the Clerk you should mention any mitigating circumstances which you wish to have put before the Court.

[If you write as mentioned, you are required to include a statement of your date of birth and sex] A form which you can use for writing to the Clerk is enclosed.

If you send in a written plea of guilty, the enclosed Statement[s] of facts and your statement in mitigation will be read out in open Court before the Court decides whether to accept your plea and hear and dispose of the case in your absence. Unless the Court adjourns the case after accepting your plea and before sentencing you (in which case you will be informed of the time and place of the adjourned hearing so that you may appear), the prosecution will not be permitted to make any statement with respect to any facts relating to the offence[s] other than the Statement[s] of facts.

If you send in a written plea of guilty but the Court decides not to accept the plea, the hearing will be adjourned and you will be informed of the time and place of the adjourned hearing. The case will then be heard as if you had not sent in a written plea of guilty.

If you send in a written plea of guilty, you may withdraw it by informing the Clerk of the withdrawal at any time before the hearing.

Neither this notice nor any reply you may send limits your right to appear before the Court at the time fixed for the hearing, either in person or by an attorney-at-law and then to plead guilty or not guilty as you may desire; if after sending in a written plea of guilty you do so appear, or if you inform the Clerk before the hearing of the withdrawal of your written plea, the case will be heard as if you had not sent it in.

If after sending in a written plea of guilty you wish to appear and plead not guilty, you will avoid delay and expense by informing the Clerk immediately of your change of intention. If you do inform the Clerk in good time there will have to be an adjournment to allow the prosecution to bring their witnesses to Court.

NOTES

1. *If you want any more information you may get in touch with the Clerk of the Court.*
2. If you intend to consult an attorney-at-law you would be well advised to do so before taking any action in response to this notice.
3. Address any letter to

The Clerk of the Magistrate's Court for District

(set out address)

Form 31

(Section 34(1)(b))

Statement of facts

To A.B., of *(state age and occupation if known).*

If you inform the Clerk of the Court that you wish to plead guilty to the charge of _____, set out in the summons served herewith, without appearing before the Court, and the Court proceeds to hear and dispose of the case in your absence under section 34 of the *Magistrate's Courts Act, 1996*, the following Statement of facts will be read out in open Court before the Court decides whether to accept your plea. If your plea of guilty is accepted, the Court will not, unless it adjourns the case after convicting you and before sentencing you, permit any other statement to be made by or on behalf of the prosecutor with respect to any facts relating to the charge.

Statement of facts

Signed
[On behalf of the Prosecutor]

Form 32

(Sections 142, 218)

Order to bring up prisoner

[Heading as in Form 1]

[To the Superintendent of *(prison or remand centre)*

[To the Police officer in charge of]

Prisoner's name:

This prisoner was committed to your custody under a
warrant of commitment dated *(date)* on remand
until *(date)* *(or state other
circumstances of commitment)*

Direction: You are hereby required to bring the prisoner before the
above mentioned Magistrate's Court on *(date)*
at *(time)* to be further dealt with according to law
(or state other reason for requiring attendance).

Magistrate

Form 33

(Section 129)

Certificate of non-payment of sums adjudged

Date:

I hereby certify that the payments due to me on behalf of [C.D.] from [A.B] under an order made by the Magistrate's Court at District on (*date*) under the (*state the Act under which the order was made*) have not been made to me in full and that there is now in arrears the sum of \$ in respect of periodical payments/instalments due up to and including (*date*)

Clerk of the Court

Form 34

(Section 129)

Declaration as to non-payment of sums adjudged

STATUTORY DECLARATION

I, G.L., of _____, do solemnly and sincerely declare that the payments due to me from A.B., under an order made by the Magistrate's Court for District _____, on the _____ day of _____, under _____, *(state the Act under which the order was made)* have not been made to me in full, and that there is now in arrears the sum of \$ _____ in respect of periodical payments/instalments due up to and including the _____ day of _____, _____.

And I make this solemn declaration, conscientiously believing the same to be true.

G.L.

Declared at _____, the _____ day of _____, _____, before me,

J.P.,

Justice of the Peace
(Or other description)

SECOND SCHEDULE

(Rule 55)

TABLE OF FEES

	\$
1. Lodging information or complaint	2.50
2. Summoning each witness	2.50
3. For each warrant	5.00
4. For each recognizance	5.00
5. Lodging notice of appeal	5.00
6. Lodging grounds of appeal	5.00
7. Preparing and forwarding record of appeal	10.00
8. Copy of any document (other than depositions) per folio of 90 words	1.00

In alimony and paternity matters the above fees need not be prepaid.

The fees payable by juveniles shall be in the discretion of the magistrate.

Made by the Rules Committee of the Supreme Court this _____ day of _____, 2001.

Chief Justice

Justice of Appeal Justice of Appeal Justice of Appeal

Judge Judge Judge

Judge Judge Judge

Solicitor-General Chief Parliamentary Counsel

President of the Bar Association

Attorney-at-Law Attorney-at-Law Attorney-at-Law

Members of the Rules Committee of the Supreme Court

Registrar (Secretary)