ACT 30
CRIMINAL AND OTHER OFFENCES (PROCEDURE) ACT, 1960

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ACT 30
CRIMINAL AND OTHER OFFENCES (PROCEDURE) ACT, 19601(1)

AN ACT to consolidate and amend enactments providing for the procedure to be followed in criminal and other offences and to provide for related matters.

PART ONE

General Provisions

Procedure

1. Procedure for criminal and other offences

(1) A criminal offence under the Criminal Offences Act, (Act 29) 1960 shall be enquired into, tried and dealt with in accordance with this Act.

(2) An offence under any other enactment shall, subject to that enactment, be enquired into, tried and dealt with in accordance with this Act.

2. Mode of trial

(1) An offence shall be tried summarily if

(*a*) the enactment creating the offence provides that it is punishable on summary conviction, and does not provide for any other mode of trial; or

(*b*) the enactment creating the offence does not make a provision for the mode of trial and the maximum penalty for the offence on first conviction is a term of imprisonment not exceeding six months, whether with or without a fine.

(2) An offence shall be tried on indictment if

(*a*) it is punishable by death or it is an offence declared by an enactment to be a first degree felony; or

(*b*) the enactment creating the offence provides that the mode of trial is on indictment.

(3) Any other offence is triable on indictment or summarily.

(4) Subject to the limitations on the jurisdiction of the Court,

(*a*) the High Court or a Circuit Court is the venue for a trial on indictment;

(*b*) the High Court, a Circuit Court or a court of summary jurisdiction, is the venue for a summary trial.

Arrest Generally

3. Mode of arrest

In making an arrest a police officer or any other person making the arrest, shall actually touch or confine the body of the person to be arrested, unless there is a submission to the custody verbally or by conduct.

4. Search of place entered by person sought to be arrested

(1) Where a person acting under a warrant of arrest, or a police officer having authority to arrest has reason to believe that the person to be arrested has entered into or is within a place, the person residing in or in charge of the place shall, on demand, allow the person so acting or the police officer free entry to the place and afford reasonable facilities to search the place for the person sought to be arrested.

(2) Where entry to the place cannot be effected in accordance with subsection (1),

(*a*) the person acting under the warrant, or

(*b*) the police officer, in a case in which a warrant may issue, but cannot be obtained without affording an opportunity for the escape of the person to be arrested,

may enter the place and search the place for the person to be arrested.

(3) A person acting under a warrant or a police officer who has authority to arrest may, if after notification of authority and purpose and demand of admittance, is unable to obtain admittance, may forcibly enter through an outer or inner door or window of any house or place.

5. Power to break out of any house for purpose of liberation

A police officer or a person authorised to make an arrest may break out of any house, or for the purpose of the liberation of the police officer or any other person who, having lawfully entered for the purpose of making an arrest, is detained within the house.

6. Unnecessary restraint

A person arrested shall not be subjected to more restraint than is necessary to prevent the escape of the person arrested.

7. Notification of substance of warrant

Except when the person arrested is in the actual course of the commission of a criminal offence or is pursued immediately after escape from lawful custody, a police officer or a person making the arrest shall inform the person arrested of the cause of the arrest, and, if the police officer or other person is acting under the authority of a warrant shall notify the person to be arrested of the content of the warrant and, if

so required, shall show the warrant to the person to be arrested.

8. Search of arrested person

(1) When a person is arrested by a police officer or any other person, the police officer making the arrest or to whom the other person, makes over the person arrested, may search the person arrested, and place in safe custody the articles, other than necessary wearing apparel, found on the arrested person.

(2) Where the person arrested can be legally admitted to bail and bail is furnished, the person arrested shall not be searched unless there are reasonable grounds to believe that the person arrested has in possession

(*a*) a stolen article, or

(*b*) an instrument of violence, or

(*c*) tools connected with the kind of offence the person arrested is alleged to have committed, or

(*d*) articles which may incriminate the person arrested in respect of the offence alleged to have been committed.

(3) The search shall be made with strict decency and where a woman is to be searched, the search shall be made by another woman.

(4) The right to search a person arrested does not include the right to examine the private part of that person.

(5) A police officer or a person making an arrest may take from the person arrested an offensive weapon which is found on the person arrested.

9. Arrested person to be taken to police station

(1) A person who is arrested, whether with or without a warrant, shall be taken with reasonable dispatch to a police station, or other place for the reception of arrested persons, and shall without delay be informed in a language which the person arrested understands and in detail of the nature of the charge that initiated the arrest.

(2) A person arrested shall, while in custody, be given reasonable facilities for obtaining legal advice, taking steps to furnish bail, and otherwise making arrangements for a defence or release.

(3) A person having the custody of a person arrested shall comply with article 15 of the Constitution.

9A. Destruction of narcotic drug before trial1a(2)

Where the offence involves a narcotic drug the court shall,

(*a*) on an application by or on behalf of the Attorney-General, order the destruction of quantity, leaving a reasonable quantity of the seized narcotic drug which is the subject matter of the offence; and

(*b*) make an order that the remaining quantity be taken as conclusive evidence of the seized narcotic drug for the purposes of the trial of the offence and any appeal after conviction.

Arrest without Warrant

10. Arrest by police officer without warrant

(1) A police officer may arrest without warrant a person who

(*a*) commits an offence in the presence of the police officer;

(*b*) obstructs a police officer in the execution of that police officer's duty;

(*c*) has escaped or attempts to escape from lawful custody;

(*d*) possesses an implement adapted or intended for use to unlawfully enter a building, and does not give a reasonable excuse for the possession of the implement; or

(*e*) possesses a thing which may reasonably be suspected to be stolen property.

(2) A police officer may arrest without warrant a person whom the police officer suspects on reasonable grounds

(*a*) of having committed an offence;

(*b*) of being about to commit an offence, in order to prevent the commission of the offence;

(*c*) of being about to commit an offence, where the police officer finds that person in any highway, yard, building or other place during the night;

(*d*) of being a person for whom a warrant of arrested has been issued by a Court;

(*e*) of being a deserter from the Armed Forces; or

(*f*) of having been concerned in an act committed outside the Republic which, if committed in the Republic would have been punishable as an offence, and for which that person is, under an enactment, liable to be arrested and detained in the Republic.

11. Refusal to give name and residence

(1) Where a person, other than a person liable to be arrested without an order or a warrant under section 10, who has been accused of committing an offence refuses on demand of a police officer to give personal details of the name and residence, or gives a name or residence which the officer has reason to believe is false, that person may be arrested by the officer in order to ascertain the name or residence.

(2) When the true name and residence of that person have been ascertained that person shall be released on executing a bond, with or without sureties, to appear before a Court as required.

(3) Where that person is not resident in the Republic the bond shall be secured by a surety or sureties resident in the Republic.

(4) Where the true name and residence of that person is not ascertained within twenty-four hours from the time of arrest, or that person fails to execute the bond, or fails as required to furnish sufficient sureties, that person shall forthwith be brought before the nearest Court having jurisdiction.

12. Arrest by private person without warrant

(1) A private person may arrest without warrant a person who in the presence of that private person commits

(*a*) an offence involving the use of force or violence;

(*b*) an offence by which bodily harm is caused to another person;

(*c*) an offence in the nature of stealing or fraud;

(*d*) an offence involving injury to public property; or

(*e*) an offence involving injury to property owned by, or in the lawful care or custody, of that private person.

(2) A private person may arrest without warrant a person whom that private person reasonably suspects of having committed an offence mentioned in subsection (1) where an offence of that nature has been committed.

13. Arrest by owners of property

Repealed.2(3)

14. Custody of person arrested by private person

(1) A private person who, without a warrant, arrests another person shall without unnecessary delay hand over the person so arrested to a police officer or, in the absence of a police officer, shall take the arrested person to the nearest police station.

(2) Where there is reason to believe that the actions of that person falls within the ambit of section 10, a police officer shall re-arrest that person.

(3) Where there is reason to believe that the person arrested has committed a felony or misdemeanour and refuses to disclose personal details of name and residence, or gives a name or residence which the officer has reason to believe is false, the arrested person shall be dealt with in accordance with section 11 or otherwise released.

15. Custody of persons arrested without warrant

(1) A person taken into custody without a warrant in connection with an offence shall be released from custody not later than forty-eighty hours after arrest unless that person is earlier brought before a court of competent jurisdiction.3(4)

(2) A person referred to in subsection (1), may, at any time whether before or after the expiration of the period of thirty days be required to enter into a bond with or without sureties for a reasonable amount to appear before the Court or at the police station or place and at the time as stated in the bond.

(3) The bond may be enforced as if it were a bond executed by order of a Court and conditioned for the appearance of that person before a Court.

(4) *Repealed*.4(5)

16. Police to report arrests

An officer in charge of a police station shall report monthly to the nearest District Magistrate the cases of the persons arrested without warrant within the limits of the area of authority of the police station and not subsequently charged with an offence, whether those persons have been admitted to bail or not.

17. Offence committed in District Magistrate's presence

Where an offence is committed in the presence of a District Magistrate within the area of jurisdiction of the Magistrate, the Magistrate may arrest or order a person to arrest the offender, and may, subject to the conditions of the grant of bail, commit the offender to custody.

18. Arrest by District Magistrate

Within the area of the jurisdiction of a District Magistrate, the Magistrate may arrest or direct the arrest in the presence of the Magistrate a person whose arrest on a warrant could have been lawfully ordered if the facts known at the time of making or directing the arrest had been stated before the District Magistrate on oath by another person.

Escape and Retaking

19. Recapture of person escaping

Where a person in lawful custody escapes or is rescued, the person from whose custody that person escapes or is rescued may immediately pursue and arrest that person in any place in the Republic.

20. Sections 4 and 5 to apply to arrest under section 19

Sections 4 and 5 shall apply to an arrest under section 19, although the person who makes the arrest is not acting under a warrant and is not a police officer with authority to arrest.

21. Assistance to District Magistrate or police officer

Every person shall assist a District Magistrate or a police officer who reasonably demands aid

(*a*) in the taking or preventing the escape of any other person whom the Magistrate or police officer is authorised to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of a criminal offence involving unlawful violence to person or property.

Security for Keeping the Peace and for Good Behaviour

22. Execution of bond for keeping the peace

(1) When a District Magistrate is informed on oath that a person is likely

(*a*) to commit a breach of the peace or disturb the public peace, or

(*b*) to do a wrongful act that may probably occasion a breach of the peace or disturb the public peace,

the Magistrate may require that person to show cause why that person should not be ordered to execute a bond, with or without sureties, for keeping the peace for a period determined by the Magistrate.

(2) Proceedings shall not be taken under subsection (1) unless the person informed against, or the place where the breach of the peace or disturbance is apprehended is within the area of jurisdiction of the Magistrate.

23. Security for good behaviour for suspected persons

When a District Magistrate is informed on oath

(*a*) that a person is taking precautions to conceal that person’s presence within the area of jurisdiction of the Magistrate, and

(*b*) that there is reason to believe that that person is taking precautions with a view to committing an offence,

the Magistrate may require that person to show cause why that person should not be ordered to execute a bond, with sureties for good behaviour for a period determined by the Magistrate.

24. Order to be made

When a District Magistrate acting in compliance with section 22 or 23, thinks it necessary to require a person to show cause as specified under any of those sections, the District Magistrate shall make an order in writing setting forth

(*a*) the substance of the information received;

(*b*) the amount of bond to be executed;

(*c*) whether the bond is for keeping the peace or for good behaviour;

(*d*) the period for which it is to be in force; and

(*e*) the number, character, and class of sureties required.

25. Procedure in respect of person present in Court

Where the person in respect of whom the order is made is present in Court, the order shall be read over to that person or, if that person so desires the substance of the order shall be explained.

26. Summons of warrant in case of absence

(1) Where the person in respect of whom the order is made is not present in Court, the Magistrate shall issue a summons requiring the appearance of, or, if in custody, a warrant directing the officer in change of the custody to bring, that person before the Court.

(2) Where it appears to the Magistrate, on the report of a police officer or on any other information, that there is reason to fear the commission of a breach of the peace, and that the breach of the peace cannot be prevented otherwise than by the immediate arrest of that person, the Magistrate may at any time issue a warrant for the arrest.

27. Copy of order under section 24 to accompany summons or warrant

(1) A summons or warrant issued under section 26 shall be accompanied with a copy of the order made under section 24.

(2) The copy shall be delivered by the officer serving or executing the summons or warrant to the person served with or arrested under the warrant.

28. Dispensing with personal attendance

The Magistrate may, on sufficient grounds, dispense with the personal attendance of a person called upon to show cause why that person should not be ordered to execute a bond for keeping the peace, and may permit that person to appear by an advocate.

29. Enquiry as to truth of information

(1) When an order under section 24 has been read or explained under section 25 to a person present in

Court, or when a person appears or is brought before a Magistrate in compliance with or in execution of a summons or warrant issued under section 26, the Magistrate shall proceed to enquire into the truth of the information on which the action has been taken, and to take any further evidence as may appear necessary.

(2) The enquiry shall be made, as nearly as may be practicable, in the manner prescribed for conducting trials before District Courts but a charge need not be framed.

(3) Pending the completion of the enquiry under subsection (1), and on the grounds that it is necessary for the

(*a*) prevention of a breach of the peace or disturbance of the public peace, or

(*b*) commission of an offence, or

(*c*) public safety,

the Magistrate may for reasons to be recorded in writing, direct the person in respect of whom the order under section 24 has been made to execute a bond with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the enquiry.

(4) The Magistrate may detain in custody the person in respect of whom the order under section 24 has been made until the bond is executed or in default of execution until the enquiry is concluded.

(5) The conditions of the bond to be executed under subsection (3) as regards

(*a*) the amount of the bond, or

(*b*) the provision of sureties, or

(*c*) the number of sureties, or

(*d*) the pecuniary extent of their liability or otherwise,

shall not be more onerous than those specified in the order under section 24.

(6) A person shall not be remanded in custody under the powers conferred by this section for a period exceeding fifteen days at a time.

(7) Where two or more persons have been associated together in the matter under enquiry, they may be dealt with in the same or separate enquiries as the Magistrate considers just.

30. Order to give security

(1) Where on the completion of the enquiry it is proved that, for keeping the peace or maintaining good behaviour, the person in respect of whom the enquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly.

(2) A person shall not be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 24.

(3) The amount of a bond shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(4) Where the person in respect of whom the enquiry is made is a minor, the bond shall be executed by the minor’s sureties.

(5) A person ordered to give security for good behaviour or keeping the peace under this section may appeal against the order, and Part Eight shall apply to the appeal.

31. Discharge of person informed against

Where on an enquiry under section 29 it is not proved that it is necessary for keeping the peace or maintaining good behaviour, that the person in respect of whom the enquiry is made should execute a bond, the Magistrate shall make an entry on the record to that effect, and where that person is in custody only for the purpose of the enquiry, the Magistrate shall release that person or where not in custody discharge that person.

Proceedings Subsequent to Order to Furnish Security

32. Commencement of period of security

(1) Where a person in respect of whom an order requiring security is made under section 30 is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of the sentence.

(2) In other cases the period shall commence on the date of the order unless the Magistrate, for sufficient reason, fixes a later date.

33. Contents of bond

The bond to be executed by a person shall bind that person to keep the peace or to be of good behaviour, and in the latter case, the commission or attempt to commit or the aiding, abetting, counselling, or procuring the commission anywhere within the Republic at any time during the continuance of the bond, of an offence punishable with imprisonment, whenever it is committed, is a breach of the bond.

34. Power to reject sureties

A Magistrate may refuse to accept a surety offered under any of the provisions of this Act on the ground that, for reasons to be recorded by the Magistrate, the surety is an unfit person.

35. Failure of person to give security

(1) Where a person ordered to give security for a period not exceeding one year does not give the security on or before the date on which the period for which the security is to be given commences, that person shall, except in the case mentioned in subsection (2), be committed to prison, or, if that person is already in prison, be detained in prison until the period expires or until within that period that person gives the security to the Court which, or Magistrate who made the order requiring it.

(2) Where a person under subsection (1) has been ordered by a Magistrate to give security for a period exceeding one year, the Magistrate shall, if that person does not give the security, issue a warrant directing that person to be detained in prison pending the orders of the High Court or a Circuit Court, and the proceedings shall be laid as soon as conveniently may be before that Court.

(3) The High Court or Circuit Court, after examining the proceedings and requiring from the Magistrate the further information or evidence which it considers necessary, may make an appropriate order.

(4) The period for which a person is imprisoned for failure to give security shall not exceed six months.

(5) Where the security is tendered to the officer in charge of the prison, the officer shall forthwith refer the matter to the Court which, or the Magistrate who, made the order and shall await the order of the Court or Magistrate.

(6) Imprisonment for failure to give security for keeping the peace shall be without hard labour.

(7) Imprisonment for failure to give security for good behaviour may be with or without hard labour as the District Court in each case directs.

36. Release of persons imprisoned for failure to give security

Where a District Magistrate is of opinion that a person imprisoned for failing to give security may be released without hazard to the community, the Magistrate shall make an immediate report of the case for the order of the High Court, and the Court may order that person to be discharged.

37. Cancellation of bond

The High Court may at any time, for substantive reasons to be recorded in writing, cancel a bond for keeping the peace or for good behaviour executed under this Act.

38. Discharge of sureties

(1) A surety for the peaceful conduct or good behaviour of another person may at any time apply to a District Magistrate to cancel a bond executed under this Act within the area of the District Magistrate's jurisdiction.

(2) On the application being made, the Magistrate shall issue a summons or warrant, as appropriate, requiring the person for whom the surety is bound to appear or to be brought before the Magistrate.

(3) When that person appears or is brought before the Magistrate, the Magistrate shall cancel the bond and shall order that person to give, for the unexpired portion of the term of the bond, fresh security of the same description as the original security.

(4) An order given under subsection (3) is for purposes of sections 33 to 37, an order under section 30.

Prevention and Investigation by Police

39. Police to prevent offences

A police officer may interpose for the purpose of preventing, and shall to the best of the police officer's ability prevent the commission of an offence.

40. Information of design to commit offences

A police officer who receives information of a design to commit an offence shall communicate the information to the police officer's superior, and to any other officer whose duty it is to prevent or take cognisance of the commission of that offence.

PART TWO

Provisions relating to Criminal Proceedings

Place of Enquiry or Trial

41. General authority of Courts to bring accused persons before them

A District Court has authority to cause to be brought before it a person who is within the area of its jurisdiction and is charged with an offence committed within the Republic or which according to law may be dealt with as if it has been committed within the Republic and to deal with the accused according to its jurisdiction.

42. Accused person to be remitted in certain cases to another Court

(1) A District Court, in this section and in section 43, before which a person who is within the area of its jurisdiction is charged with having committed an offence within the area of the jurisdiction of another District Court is brought shall, unless authorised to proceed in the case,

(*a*) send that person in custody to the District Court within the area of whose jurisdiction the offence was committed, or

(*b*) require that person to give security for surrender to the receiving District Court, there to answer the charge and to be dealt with according to law.

(2) For purposes of this section and section 43, a District Court remitting a case is referred to as the remitting Court to the Court to which the case is remitted as the receiving Court.

(3) Where the offence was committed in an area within which one or more Courts have concurrent jurisdiction, the remitting Court shall, unless authorised to proceed in the case,

(*a*) send the person charged in custody to any one of those Courts as can most conveniently deal with the case, or

(*b*) require that person to give security for surrender to the receiving Court there to answer the charge and to be dealt with accordingly to law.

(4) The remitting Court shall send to the receiving Court an authenticated copy of the information, summons, warrant, and any other process or documents in its possession, relative to that person.

43. Removal under warrant

(1) Where a person is to be sent in custody in pursuance of section 42, a warrant shall be issued by the remitting Court, and that warrant shall be sufficient authority to a person to whom it is directed to receive and detain the person named in the warrant and to carry and deliver that person to the District Court within whose jurisdiction the criminal or any other offence was committed, or may be enquired into or tried.

(2) The person to whom the warrant is directed shall execute it according to its tenor without delay.

44. Bringing case before High Court or Circuit Court

(1) A criminal case for trial on indictment shall not be brought before the High Court or Circuit Court, unless it has previously been brought before a District Court and the accused person has been committed for trial to the High Court or Circuit Court.

(2) Subject to subsection (1),

(*a*) the High Court or Circuit Court may issue a summons or warrant for the commencement of a criminal case irrespective of which Court the case is to be tried; and

(*b*) sections 60 to 87 shall with the necessary modifications, apply in relation to the High Court and a Circuit Court as they apply to the District Court.

(3) The High Court may hear and determine a criminal case although the summons or warrant for the commencement of the case was issued by a District Court.

45. Determination of place of investigation and trial

Subject to section 44 and to the powers of transfer conferred by any other enactment, the place for the investigation and trial of an offence shall be determined according to the following rules:

General rule

(*a*) An offence shall ordinarily be enquired into and tried by a Court within the area of whose jurisdiction it was committed.

Accused tried where act done, or where consequence ensues

(*b*) Where a person is accused of the commission of an offence by reason of a thing which has been done, or of a thing which has been omitted to be done, and of the consequence which has ensued, the offence may be enquired into or tried in a Court within the area of whose jurisdiction that thing has been done or omitted to be done, or the consequence has ensued.

When offence constituted by relation to another offence

(*c*) Where an act is an offence by reason of its relation to another act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first mentioned offence may be enquired into or tried by a Court within the area of whose jurisdiction either act was done.

When place uncertain or offence distributed

(*d*) In any of the cases following, that is to say,

(i) where it is uncertain in which of several areas an offence was committed, or

(ii) where an offence is committed partly in one area and partly in another, or

(iii) where an offence is a continuing one, and continues to be committed in more areas than one, or

(iv) where it consists of several acts done in different local areas,

the offence may be enquired into or tried by a Court having jurisdiction over any of those areas.

When offences bind

(*e*) Where a person is charged with more than one offence in the same complaint, charge sheet or indictment, a Court which enquires into or tries any of those offences may at the same time enquire into or try any other offences in the same complaint, charge sheet or indictment, which may, under this Act, be enquired into or tried at the same time as the first mentioned offence.

When accused bind

(*f*) A Court which enquires into or tries an offence against a person may also enquire into or try an offence against any other person which, under this Act, may be enquired into or tried at the same time as the first mentioned offence.

46. Offences at sea or out of the Republic

Where a person is accused of the commission of an offence at sea or elsewhere out of the Republic which according to the law may be dealt with in the Republic, the offence may, subject to section 118, be enquired into and tried at a place in the Republic to which the accused person is first brought or to which the accused is taken subsequently.

46A. *Repealed.***5(6)**

47. Offence committed on a journey

An offence committed whilst the offender is in the course of performing a journey or voyage may be enquired into or tried by a Court through or into the area of whose jurisdiction the offender or the person against whom or the thing in respect of which the offence was committed passed in the course of that journey or voyage.

48. Court to decide in case of doubt

(1) Where a doubt arises as to the Court in which an offence should be enquired into or tried, the Court entertaining the doubt may report the circumstances to the High Court, and the High Court shall decide in which Court the offence shall be enquired into or tried.

(2) A decision of the High Court under subsection (1) is subject to clause (1) of article 137 of the Constitution, but the accused person may show that the High Court does not have jurisdiction in the case.6(7)

49. Cause commenced in wrong place

Where a cause is commenced in a place other than that in which it ought to have been commenced, the cause may be tried in that place unless the defendant objects to this at or before the time when the defendant is called upon to plead or to state an answer in the cause.

Information as to Offences against the State

50. Power to require information

(1) For the purpose of detecting the commission of an offence under Chapter 1 of Part Four of the Criminal Offences Act, 19607(8) (Act 29) or any activity prejudicial to

(*a*) the defence of the Republic,

(*b*) the relations of the Republic with other countries, or

(*c*) the security of the Republic,

the Attorney-General may give to a person in the Republic, or an individual outside the Republic who is a citizen of the Republic or ordinarily resident in the Republic, directions requiring that person within the time and in the manner specified in the directions, to furnish to the Attorney-General or to a person

designated in the directions as a person authorised to require it, an information in that person's possession or control which the Attorney-General or the person so authorised, may require.

(2) A person required by those directions to furnish information shall also produce the books, accounts or any other documents in that person's possession or control as are required by the Attorney-General, or by the person authorised to require the information.

(3) The Attorney-General or the other person to whom any of the documents are produced may take copies of those documents or a part of those documents.

51. Saving for privileged communications

Section 50 does not require a person who has acted as counsel or solicitor for any other person to disclose a privileged communication made to that person in that capacity.

52. Restrictions on use of information obtained

Answers given in compliance with directions under section 50 and copies of documents taken under that section, are not admissible in evidence in legal proceedings other than proceedings for an offence under Chapter 1 of Part Four of the Criminal Offences Act, 1960 (Act 29) or under section 53 of this Act or proceedings for perjury committed in the course of proceedings for that offence.

53. Punishment for failure to give information

A person who fails to comply with a direction under section 50, whether in respect of the furnishing of information or the production of documents, or who in furnishing an information in compliance with directions under section 50 makes a statement which that person knows to be false in a material particular or recklessly makes a statement which is false in a material particular commits a misdemeanour.

Control of Attorney-General over Criminal Proceedings

54. *Nolle prosequi*

(1) In a criminal case, and at any stage of a criminal case before verdict or judgment, and in the case of preliminary proceedings before the District Court, whether the accused has or has not been committed for trial, the Attorney-General may enter a *nolle prosequi*, by stating in Court or by informing the Court in writing that the Republic does not intend to continue the proceedings.

(2) Where the Attorney-General enters a *nolle prosequi* under subsection (1),

(*a*) the accused shall be discharged immediately in respect of the charge for which the *nolle prosequi* is entered, or

(*b*) the accused shall be released where the accused has been committed to prison, or

(*c*) the recognisances of the accused shall be discharged where the accused is on bail.

(3) The discharge of the accused shall not operate as a bar to subsequent proceedings against the accused in respect of the same case.

(4) Where the accused is not before the Court when the *nolle prosequi* is entered, the Registrar or clerk of the Court shall ensure that notice in writing of the entry of the *nolle prosequi* is given to the keeper of the prison in which the accused is detained and where the accused has been committed for trial, to the District Court by which the accused was committed.

(5) The District Court shall cause a similar notice in writing to be given to a witness bound over to prosecute and to the sureties, and also to the accused and the sureties of the accused where the accused has been admitted to bail.

55. Attorney-General may delegate certain powers as *nolle prosequi*

(1) The Attorney-General may order in writing that the powers expressly vested in the Attorney-General by section 54 be vested for the time being in a person appointed to sign indictments or to represent the Republic at trials on indictment, and that those powers may be exercised by that person accordingly.

(2) The Attorney-General may in writing revoke an order made under subsection (1).

Appointment of Public Prosecutors and Conduct of Prosecutions

56. Appointment and duties of public prosecutors

(1) Subject to article 88 of the Constitution, the Attorney-General may, by executive instrument appoint generally, or for a specified class of criminal cause or matter, or for a specified area, public officers to be public prosecutors, and may appoint a legal practitioner in writing to be a public prosecutor in a particular criminal cause or matter.

(2) A public prosecutor appointed under subsection (1) may appear and plead before a Court or Tribunal designated by the Attorney-General in the executive instrument or in writing.

(3) The Attorney-General may give express directions in writing to the public prosecutor.8(9)

57. Public prosecutor to intervene in private prosecutions

Repealed.9(10)

58. Prosecutions on indictment

Proceedings shall not be instituted for the trial of an accused on indictment except by or on behalf of the Attorney-General.

59. Withdrawal from prosecution and preliminary investigations

(1) In any trial or preliminary proceedings before a District Court a prosecutor, with the consent of the Court, or on the instructions of the Attorney-General at any time before judgment is pronounced or an order of committal is made, may withdraw from the prosecution of a person generally or in respect of any one or more offences with which that person is charged.

(2) On the withdrawal under subsection (1),

(*a*) if it is made in the course of an enquiry under Part Four, the accused shall be discharged in respect of the offence or offences; or

(*b*) if it is made in the course of a trial,

(i) before the case of the prosecution has been closed, the accused shall be charged in respect of the offence or offences;

(ii) after the case for the prosecution has been closed, the accused shall be acquitted in

respect of the offence or offences.

(3) *Repealed*.10(11)

(4) A discharge of an accused under this section shall not operate as a bar to subsequent proceedings against the accused on account of the same facts.

(5) The provisions of the preceding subsections shall apply *mutatis mutandis* to summary trials before the High Court or a Circuit Court.

Institution of Proceedings

60. Method of instituting criminal proceedings

(1) Subject to article 88 of the Constitution, criminal proceedings may be instituted before a District Court,

(*a*) by making a complaint and applying for the issue of a warrant or a summons in the manner prescribed under section 61, or

(*b*) by bringing a person arrested without a warrant before the Court on a charge contained in a charge sheet specifying

(i) the name and occupation of the person charged,

(ii) the charge against that person, and

(iii) the time when and the place where the offence is alleged to have been committed.

(2) The charge sheet shall be signed by the police officer or public prosecutor in charge of the case.

(3) The validity of the proceedings instituted or purporting to be instituted under subsection (1) shall not be affected by a defect in the complaint or charge sheet or by the fact that a summons or warrant was issued without a complaint or, in a case of a warrant without a complaint on oath.

(4) *Omitted.*11(12)

(5) *Omitted.*12(13)

61. Making a complaint

(1) A person who believes from a reasonable and probable cause that an offence has been committed by another person may make a complaint of the offence to a District Magistrate who has jurisdiction to try or enquire into the alleged offence, or within the area of whose jurisdiction the person accused is alleged to reside or is.

(2) A complaint shall be made orally or in writing, but if made orally shall be reduced into writing by the Magistrate and in either case shall be signed by the complainant and the Magistrate.

(3) On receiving a complaint the Magistrate may refuse to issue process, recording reasons for the refusal, or may issue a summons or warrant, to compel the attendance of the accused person before the District Court which the Magistrate is empowered to hold, or if the offence appears to be one which the Magistrate is not empowered to try or enquire into, before any other competent Court having jurisdiction in that area.

(4) A warrant shall not be issued in the first instance unless the complaint has been made on oath by the complainant or by a material witness or witnesses.

Issue of Summons

62. Form and contents of summons

(1) A summons issued by a District Court under this Act shall be in writing, in duplicate, signed by the presiding officer of the Court or by any other officer directed by the Rules of Court or the Chief Justice.

(2) A summons shall be directed to the person summoned and shall require that person to appear at the time or place appointed in the summons before a District Court having jurisdiction to enquire into and deal with the complaint or charge.

(3) The summons shall state shortly the offence with which the person against whom it is issued is charged.

63. Service of summons

(1) A summons shall be served by a police officer or by an officer of the Court issuing it or any other public officer, and shall, if practicable, be served personally on the person summoned by delivering or tendering to that person one of the duplicates of the summons.

(2) A person on whom a summons is served shall, if so required by the serving officer, sign a receipt of the summons on the back of the other duplicate.

64. Service when person summoned cannot be found

Where the person summoned cannot, by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for the person summoned with a person apparently over the age of eighteen at the usual or last known place of abode or business of that person.13(14)

65. Procedure when service cannot be effected as before provided

Where service in the manner provided by sections 63 and 64 cannot, by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to a conspicuous part of the house or homestead in which the person summoned ordinarily resides, and the summons shall be considered to have been duly served.

66. Service on civil servant

(1) Where the person summoned is in the public service, the District Court issuing the summons shall ordinarily send it in duplicate to the head of the department in which that person is employed, and the head of department shall on receipt of the summons cause the summons to be served in the manner provided by section 63 and shall return it to the Court under personal signature with the endorsement required by that section.

(2) The signature of the head of department is evidence of the service.

67. Service on company

(1) Service of a summons on a body corporate may be effected by serving it on the secretary, local manager, or principal officer of the body corporate or by registered letter addressed to the chief officer of the body corporate in the Republic at its registered office.

(2) Where service of summons is by registered letter, service shall be considered to have been effected when the letter arrives in the ordinary course of post.

68. Service outside local limits of jurisdiction

Where a District Court desires that a summons issued by it shall be served at any place outside the area of its jurisdiction, it shall send the summons in duplicate to a District Magistrate within the area of whose jurisdiction the person summoned resides or is, to be served there.

69. Proof of service

(1) Where the officer who served a summons is not present at the hearing of the case, and where a summons issued by a District Court has been served outside the area of its jurisdiction,

(*a*) an affidavit purporting to be made before a Magistrate that the summons has been served, and

(*b*) a duplicate of the summons purporting to be endorsed in the prescribed manner by the person to whom it was delivered or tendered or with whom it was left,

is admissible in evidence, and the statements made in the summons shall be deemed to be correct until the contrary is proved.

(2) The affidavit mentioned in this subsection (1) may be attached to the duplicate of the summons and returned to the Court.

70. Dispensing with personal attendance of accused

(1) Where a District Magistrate issues a summons in respect of an offence other than a felony, the Magistrate may, if necessary, and shall when the offence with which the accused is charged is punishable only by a fine or by imprisonment not exceeding three months, dispense with the personal attendance of the accused, where the accused pleads guilty in writing or appears by counsel.

(2) The Magistrate enquiring into or trying a case may at a subsequent stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce the attendance in the manner provided for in this section.

(3) Where a Magistrate imposes a fine on an accused person whose personal attendance has been dispensed with under this section and the fine is not paid within the time prescribed, the Magistrate may forthwith issue a summons calling upon the accused to show cause why the accused should not be committed to prison.

(4) Where the accused person does not attend on the return of the summons, the Magistrate may forthwith issue a warrant and commit the accused person to prison for a term determined by the Magistrate.

(5) Where under this section the attendance of an accused is dispensed with, and previous convictions are alleged against the accused and are not admitted in writing or through the accused's counsel, the Magistrate may adjourn the proceedings and direct the personal attendance of the accused, and, if necessary, enforce the attendance in the prescribed manner.

(6) Wherever the attendance of an accused has been so dispensed with and the accused's attendance is subsequently required, the cost of the adjournment shall be borne by the accused.

Issue of Warrant of Arrest

71. Warrant when issued

(1) A warrant may be issued at any time before or after the time appointed in the summons for the appearance of the accused although a summons may have been issued.

(2) A warrant shall not be issued under subsection (1) unless a complaint or charge has been made on oath.

72. Summons disobeyed

(1) Where the accused does not appear at the time and place appointed in and by the summons, and the accused's personal attendance has not been dispensed with under section 70, the Court may issue a warrant to arrest the accused and cause the accused to be brought before the Court.

(2) The warrant shall not be issued unless a complaint or charge has been made on oath.

73. Form, contents and duration of warrant of arrest

(1) A warrant of arrest shall be personally signed by the Judge or Magistrate issuing it.

(2) A warrant of arrest shall state shortly the offence with which the person against whom it is issued is charged and shall name or otherwise describe that person, and it shall order the person to whom it is directed to arrest the person against whom it is issued and bring that person before a Court issuing the warrant or before any other Court having jurisdiction in the case, to answer to the charge mentioned in the warrant and to be dealt with according to law.

(3) The warrant shall remain in force until it is executed or until it is cancelled by the Court which issued it.

74. Taking direct security

(1) A Court issuing a warrant for the arrest of a person in respect of an offence other than murder or treason, may by endorsement on the warrant direct that the person named in the warrant, on arrest, be released where that person enters into a bond in the amount specified, with or without sureties, or the appearance of that person before the Court as the time stated in the endorsement.

(2) The endorsement shall specify

(*a*) the number of sureties,

(*b*) the amount in which they and the person named in the warrant are respectively to be bound,

(*c*) the Court before which the person arrested is to attend, and

(*d*) the time at which the person is to attend, including an undertaking to appear at the subsequent times directed by the Court.

(3) When an endorsement is made, the officer in charge of a police station to which on arrest the person named in the warrant is brought shall release that person where that person enters into a bond with or without sureties approved by that officer, in accordance with the endorsement, conditioned for the appearance of that person before that Court, at the time and place named in the bond.

(4) Where security is taken under this section the officer who takes the bond shall forward it to the

Court before which the person named in the warrant is bound to appear.

75. Warrants to whom directed

(1) A warrant of arrest may be directed

(*a*) to one or more police officers,

(*b*) to one police officer and to all other police officers of the area within which the Court has jurisdiction,

(*c*) generally to the police officers of the area.

(2) A Court issuing a warrant may if its immediate execution is necessary and a police officer is not immediately available, direct it to any other person and that other person shall execute it.

(3) Where a warrant is directed to more than one officer or person, it may be executed by all or by any one or more of them.

76. Execution of warrant directed to police officer

A warrant directed to a police officer may be executed by any other police officer whose name is endorsed on the warrant by the officer to whom it is directed or endorsed.

77. Appearance before the Court without delay

Subject to section 74, the police officer or person executing a warrant of arrest shall without unnecessary delay bring the person arrested before the Court which the police officer or that person is required by the warrant or the requirements of section 81 to produce, and shall return the warrant to the Court with an endorsement on the warrant showing the time and the place of its execution.

78. Execution of warrant of arrest

A warrant of arrest may be executed at any place in the Republic.

79. Forwarding of warrant for execution outside jurisdiction

(1) Where a warrant of arrest is to be executed outside the area of the jurisdiction of the Court issuing it, the Court may, instead of directing the warrant to a police officer, forward it by post or otherwise to a District Magistrate within the area of whose jurisdiction it is to be executed.

(2) The Magistrate to whom the warrant is forwarded shall endorse the warrant with the name of the Magistrate, and if practicable, cause it to be executed in the prescribed manner within the area of the Magistrate's jurisdiction.

80. Direction to police officer for execution outside jurisdiction

(1) Where a warrant of arrest directed to a police officer is to be executed outside the area of the jurisdiction of the Court issuing it, the police officer shall take it for endorsement to a District Magistrate within the area of whose jurisdiction is to be executed.

(2) The Magistrate shall endorse the warrant with the name of the Magistrate and the endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute it within the limits, and the local police officers shall, if so required, assist that officer in executing the warrant.

(3) Where there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate within the area of whose jurisdiction the warrant is to be executed will prevent the execution, the police officer to whom it is directed may execute it without the endorsement in a place outside the area of the jurisdiction of the Court which issued it.

81. Procedure on arrest of person outside jurisdiction

(1) Where a warrant of arrest is executed outside the area of the jurisdiction of the Court by which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest, or is nearer than the District Magistrate within the area of whose jurisdiction the arrest was made, or unless security is taken under section 74, be taken before the District Magistrate within the area of whose jurisdiction the arrest was made.

(2) The Magistrate shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct that person's removal in custody to the Court.

(3) Where that person has been arrested for an offence, other than murder or treason, and is ready and willing to give bail to the satisfaction of the Magistrate, or if a direction has been endorsed under section 74 on the warrant and that person is ready and willing to give the security required by the direction, the Magistrate shall take bail or security, and shall forward the bond to the Court which issued the warrant.

(4) This section shall not prevent a police officer from taking security under section 74.

Miscellaneous Provisions regarding Processes

82. Summons, warrants on Sunday

A Summons or warrant may be issued and executed on any day of the week.

83. Irregularities in processes

(1) An irregularity or a defect in the substance or form of a summons or warrant, and a variance

(*a*) between a summons or warrant and the written complaint, or

(*b*) between a summons or warrant and the evidence adduced at an enquiry or a trial on the part of the prosecution against an accused whose attendance has been procured by the summons or warrant,

shall not affect the validity of the proceedings at or subsequent to the hearing of the case.

(2) Where the Court considers that the variance may have deceived or misled the accused, the Court may, at the request of the accused, adjourn the hearing of the case to a future date and in the meantime remand the accused or admit the accused to bail in the prescribed manner.

(3) A warrant, summons or any other process issued by a Justice or Magistrate under this Act or otherwise shall not be invalidated by reason of the Justice or Magistrate who signed it, dying or ceasing to hold office or to have jurisdiction.

84. Bond for appearance

(1) Where a person for whose appearance or arrest the officer presiding in a Court is empowered to issue a summons or warrant is present in Court, the officer presiding may require that person to execute a bond, with or without sureties, for the appearance of that person in the Court.

(2) When the bond is taken from a person accused on complaint, the taking of the bond is, for the purpose of this Act, the issue of process against the person accused on the complaint.

85. Arrest on breach of bond for appearance

Where a person who is bound by a bond taken under this Act to appear before a Court does not appear, the Court may issue a warrant directing that person to be arrested and produced before it.

86. Appearance of prisoner to be brought before the Court

(1) Where a person for whose appearance or arrest a Court is empowered to issue a summons or warrant is confined in a prison within the area of the jurisdiction of the Court, the Court may issue an order to the officer in charge of the prison requiring the officer to bring the prisoner in proper custody, at the time named in the order, before the Court.

(2) The officer, on receipt of the order, shall act in accordance with the order, and shall provide for the safe custody of the prisoner during the prisoner's absence from the prison.

87. Application of Part to summonses and warrants

The provisions in this Part relating to a summons and warrant, and their issue service and execution, shall apply to a summons and a warrant of arrest issued under this Act or any other enactment.

Search Warrants

88. Issue search warrant and procedure

(1) Where a District Magistrate is satisfied, by evidence on oath, that there is reasonable ground for believing that there is in a building, vessel, carriage, box, receptacle, or place

(*a*) a thing on or in respect of which an offence has been or is suspected to have been committed, for which according to law, the offender may be arrested without warrant, or

(*b*) a thing which there is reasonable ground for believing will afford evidence as to the commission of an offence, or

(*c*) a thing which there is reasonable ground for believing is intended to be used for the purpose of committing an offence against the person for which, according to law, the offender may be arrested without warrant,

the Magistrate may at any time personally issue a warrant authorising a constable to search the building, vessel, carriage, box, receptacle, or place for that thing, and to seize and carry it before the Magistrate issuing the warrant or any other Magistrate to be dealt with according to law.

(2) Where the thing to be searched for is gunpowder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the powers and protection as are given by law to a person lawfully authorised to search for that thing, and the thing itself shall be disposed of in the manner as directed by law or, in default of the direction, as directed by the Superintendent of Police.

89. Execution of search warrant

A search warrant may be issued and executed on a Sunday and shall be executed between the hours of 6.30 a.m. and 6.30 p.m., but the Court may, by the warrant, authorise the police officer or other person to

whom it is addressed to execute it at any hour.

90. Persons in charge of closed place to allow ingress

(1) Where a building or any other place liable to search is closed, a person residing in or being in charge of the building or place shall, on demand of the police officer or other person executing the search warrant, allow the police officer or that other person free entry and afford reasonable facilities for a search within the building or place.

(2) Where entry into the building or other place cannot be obtained, the police officer or other person executing the search warrant may proceed in the manner prescribed by sections 4 and 5.

(3) Where a person in or about the building or place is reasonably suspected of concealing about that person's body an article for which search should be made, that person may be searched.

(4) Where the person to be searched is a woman, the provisions of section 8 (3) shall be observed.

91. Detention of articles seized

(1) Where an article is seized under a search warrant and brought before a Magistrate, the Magistrate may detain or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the case.

(2) Where an appeal is made, the Magistrate may order the further detention of the article for the purpose of or pending the appeal.

(3) Where an appeal is not made, the Magistrate shall, subject to subsections (4) and (5), direct the article to be restored to the person from whom it was taken, unless the Magistrate is authorised or required by law to dispose of it otherwise.

(4) Where under a warrant, there is brought before a Magistrate a forged bank note, bank note paper, instrument or a thing the possession of which, in the absence of lawful excuse, is an offence according to law, the Magistrate may direct it to be detained for production in evidence or to be otherwise dealt with as the case may require.

(5) Where under a warrant, there is brought before a Magistrate a counterfeit coin or other thing, the possession of which, with knowledge of its nature and without lawful excuse, is an offence according to law, it shall be delivered up to the Superintendent of Police, or to any other person authorised by the Superintendent to receive it, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

92. Provisions applicable to search warrants

Sections 73 (1) and (3), 75, 76, 78, 79, 80 and 83 shall apply to search warrants issued under section 88.

93. Search without a warrant in certain cases

(1) Where a police officer has reasonable cause to believe that an article

(*a*) which has been stolen or unlawfully obtained,

(*b*) in respect of which a criminal offence has been, is being or is about to be committed,

is being conveyed, is concealed, or being carried on a person in a public place, or is concealed or contained in a package in a public place for the purpose of being conveyed, the police officer may, where

the exigencies of the case so require, without a warrant or written authority arrest, seize and search that person, package or article.

(2) A police officer who arrests a person, conducts a search or seizure, may take possession of and detain an article together with the package containing it, any may also arrest a person conveying, concealing or carrying the article.

94. Search of premises without warrant

(1) A police officer not below the rank of Assistant Superintendent of Police, or who being below the rank is authorised in writing so to do by a police officer not below the rank, may enter a house, shop, warehouse, yard, ship, boat, vessel, beach or any other premises which the police officer has reasonable cause to believe contains property which has been stolen or dishonestly received.

(2) The police officer may search for, seize, and secure, the property which the police officer has reasonable cause to believe has been stolen, or dishonestly received as if the police officer had a search warrant and the property seized corresponded to the property described in the search warrant.

(3) Authorisations, searches, and seizures, given or made under this section shall not be confined to a particular property, but may be general.

95. Saving with respect to certain postal matter

Sections 88 and 93 shall not apply to the case of postal matter in transit by post, except where the postal matter has been, or is suspected of having been, dishonestly appropriated during the transit.

Bail and Recognisances Generally

96. Granting of bail

(1) Subject to this section, a Court may grant bail to a person who appears or is brought before it on a process or after being arrested without warrant, and who

(*a*) is prepared at any time or at any stage of the proceedings or after conviction pending an appeal to give bail, and

(*b*) enters into a bond in the prescribed manner with or without sureties, conditioned for that person’s appearance before that Court or any other Court at the time and place mentioned in the bond.

(2) Despite anything in subsection (1) or in section 15, but subject to this section, the High Court or a Circuit Court may direct that a person be admitted to bail or that the bail required by a District Court or police officer be reduced, although subsection (1) or section 15 provides otherwise.

(3) The amount and conditions of bail shall be fixed with due regard to the circumstances of the case and shall not be excessive or harsh.

(4) A Court shall not withhold or withdraw bail merely as a punishment.

(5) A Court shall refuse to grant bail if it is satisfied that the defendant

(*a*) may not appear to stand trial, or

(*b*) may interfere with a witness or the evidence, or in any way hamper police investigations, or

(*c*) may commit a further offence when on bail, or

(*d*) is charged with an offence punishable by imprisonment exceeding six months which is alleged to have been committed while the defendant was on bail.

(6) In considering whether it is likely that the defendant may not appear to stand trial the Court shall take into account

(*a*) the nature of the accusation,

(*b*) the nature of the evidence in support of the accusation,

(*c*) the severity of the punishment which conviction will entail,

(*d*) whether the defendant, having been released on bail on a previous occasion, has wilfully failed to comply with the conditions of the recognisance entered into by the defendant on that occasion,

(*e*) whether or not the defendant has a fixed place of abode in the Republic, and is gainfully employed,

(*f*) whether the sureties are independent, of good character and of sufficient means.

(7) A Court shall refuse to grant bail

(*a*) in a case of acts of terrorism, treason, subversion, murder, robbery, offences listed in Parts I and II of the Narcotic Drugs (Control, Enforcement and Sanctions) Law, 1990 (P.N.D.C.L. 236), hijacking, piracy, rape, defilement or escape from lawful custody, or13a(15)

(*b*) where a person is being held for extradition to a foreign country.14(16)

97. General provisions as to recognisances

(1) Where in respect of a bond, the amount has been fixed in which the sureties are to be bound, the bond need not be entered into before the Court, but may, subject to the Rules made in pursuance of this Act be entered into

(*a*) by the parties before any other Court or before a clerk of a Court; or

(*b*) before a Sub-Inspector of Police or other officer of police of equal or superior rank or in charge of a police station; or

(*c*) before the Superintendent or other keeper of the prison where any of the parties is in prison,

and the consequences of the law shall ensue and the provisions of this Act with respect to bonds taken before a Court shall apply as if the bond had been entered into before a Court.

(2) Where a person is required, as a condition of the release, to enter into a bond with sureties, the bond of the sureties may be taken separately and before or after the bonds of the principal, and if so taken the bonds of the principal and sureties are as binding as if they had been taken together and at the same time.

(3) Without limiting the power of the Court to vary an order at a subsequent hearing, a bond for the appearance of a person before the Court may be conditioned for that person’s appearance at every time and place to which, during the course of the proceedings the hearing may be adjourned.

98. Discharge from custody

(1) Where the execution of a bond is a condition of the release of a person, that person shall be released as soon as the bond has been executed and if that person is in prison or police custody, the Court

shall issue an order of release to the officer in charge of the prison or any other place of detention and the officer on receipt of the order shall release that person.

(2) Subsection (1) or section 96 shall not require the release of a person liable to be detained for a matter, other than that in respect of which the bond was executed.

99. Deposit instead of recognisance

(1) Where a person is required by a Court or an officer to execute a bond, with or without sureties, the Court or officer may, except in the case of a bond for good behaviour, permit that person to deposit a sum of money of an amount determined by the Court or officer in lieu of executing the bond, as security for the due performance of the conditions imposed on that person by the Court or officer requiring the execution of the bond.

(2) On a breach of a condition, proceedings under section 104 may be taken for the forfeiture of the deposit in the same manner and to the same extent as if a bond for the amount of the deposit had in fact been executed.

100. Variation of a recognisance

(1) Where at any time after a bond has been entered into it appears to the Court that for a reason the sureties are unsuitable or that having regard to the circumstances of the case, the amount of the bond is insufficient, the Court may issue a summons or warrant for the appearance of the principal.

(2) On the principal coming before the Court, the Court may order the principal to execute a fresh bond in another amount or with any other surety or sureties, and on failing to do so may commit the principal to prison for a term not exceeding the maximum term for which the principal could have been committed to prison had the principal failed to produce a surety in the first instance.

101. Discharge of sureties

(1) A surety for the appearance or behaviour of a person may at any time apply to a District Magistrate to discharge the bond wholly or so far as it relates to the applicant.

(2) On the application being made the Magistrate shall issue the warrant of arrest directing that the person so released be brought before the Magistrate.

(3) On the appearance of the person pursuant to the warrant, or on that person's voluntary surrender, the Magistrate shall direct the bond to be discharged wholly or so far as it relates to the applicant, and shall call on that person to find other sufficient sureties, and on failing to do so that person may be committed to prison.

102. Recognisances in respect of juveniles

Where the person in respect of whom a Court makes an order requiring that a bond be entered into is a juvenile, the Court shall not require the juvenile to execute the bond, but shall require a relative, guardian or any other fit person with or without sureties to execute a bond on condition that the juvenile shall do what is required under the Court's order.15(17)

103. Persons bound by recognisance absconding may be committed

Where it appears to a Court, on information on oath, that a person bound by bond to appear before a Court or police officer is about to leave the Republic, the Court may cause that person to be arrested and

may commit that person to prison until the trial, unless the Court admits that person to bail on further recognisance

104. Forfeiture of recognisance

(1) Where it is proved to the satisfaction of a Court by which a recognisance under this Act has been taken, or when the recognisance is for appearance before a Court, to the satisfaction of that Court, that the recognisance has been forfeited, the Court shall record the grounds of proof, and may call on a person bound by the recognisance to pay the penalty or the forfeiture, or to show cause why it should not be paid.

(2) Where sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover it by forfeiting the sum of money deposited in pursuance of section 99 or by issuing a warrant for the attachment and sale of the movable property belonging to that person or the estate of that person if deceased.

(3) The warrant may be executed within the area of the jurisdiction of the Court which issued it; and it shall authorise the attachment and sale of movable property, belonging to that person, when endorsed by a Magistrate within whose area of jurisdiction the property is found.

(4) Where the penalty is not paid and cannot be recovered by attachment and sale, the person so bound is liable, by order of the Court which issued the warrant, to imprisonment without hard labour for a term not exceeding six months.

(5) *Repealed.*16(18)

(6) Where a surety to a recognisance dies before the recognisance is forfeited, the estate of the surety shall be discharged from the liability in respect of the recognisance.

(7) Where a person who has furnished security is convicted of an offence the commission of which constitutes a breach of the conditions of that person's recognisance, a certified copy of the judgment of the Court by which that person was convicted may be used as evidence in proceedings under this section against the surety of that person and, if the certified copy is so used, the Court shall presume that the offence was committed by that person unless the contrary is proved.

105. Appeal from and review of orders

The orders passed under section 104 by a Magistrate may be appealed against and may be reviewed by the High Court.

106. Order of fresh security upon original order

Where a surety to a recognisance becomes insolvent or dies or when a recognisance is forfeited under section 104, the Court may order the person from whom the recognisance was demanded to furnish fresh security in accordance with the directions of the original order, and, if the security is not furnished, the Court may proceed as if there had been default in complying with the original order.

107. Levy of amount due on certain recognisances

The High Court or a Circuit Court may direct a District Magistrate to levy the amount due on a recognisance to appear and attend at that Court.

108. Photographs and fingerprints

(1) Where a person is prosecuted and charged before a Court with an offence which amounts to a felony, or involves fraud or dishonesty, then whether the offence is triable summarily or on indictment, or whether that person has or has not been admitted to bail, a competent police authority of the locality may cause to be taken for use and record in the Police Service the photographs, descriptions, measurements, thumbprints and fingerprints of the person as that competent police authority thinks fit.

(2) Where that person is not convicted as a result of or in connection with that prosecution, the photographs and the records of that person's thumbprints and fingerprints shall be destroyed.

(3) A competent police authority is hereby authorised and empowered to take the necessary action and to do the things that the proper and efficient execution of this section may reasonably require.

Joinder of Charges and Accused

109. Joinder of charges

(1) For each distinct offence of which a person is accused there shall, subject to subsection (2), be a separate charge or count.

(2) Charges or counts for offences may be joined in the same complaint, charge sheet, or indictment and tried at the same time if the charges or counts are founded on the same facts, or form or are a part of a series of offences of the same or a similar character.

110. Joinder of accused

(1) The following persons may be charged and tried together, namely,

(*a*) persons accused of the same offence committed in the course of the same transaction;

(*b*) persons accused of an offence and persons accused of abetment, or of an attempt to commit the offence;

(*c*) persons accused of different offences where the offences are founded on the same facts, or form or are part of a series of offences of the same or a similar character;

(*d*) persons accused of different offences committed in the course of the same transaction.

(2) A trial shall not be invalidated by reason only that two or more persons have wrongly been tried together on one complaint, charge sheet or indictment unless objection is made by any of the accused at the time or before the accused was called upon to plead.

111. Separate trials

Without prejudice to sections 109 and 110, where before a trial or at any stage of a trial, the Court is of opinion that the person accused may be prejudiced or embarrassed in that person's defence by reason of being charged with more than one offence in the same complaint, charge sheet, or indictment, the Court may order a separate trial of any count or counts of the complaint, charge sheet, or indictment.

112. Statement of charges in necessary documents

(1) Subject to the special rules as to indictments mentioned in this section, a charge, complaint, summons, warrant, or any other document laid, issued or made for the purpose of or in connection with proceedings before a Court for an offence shall be sufficient if it contains a statement of the offence with which the accused person is charged together with the particulars necessary for giving reasonable

information as to the nature of the charge and although there may be a rule of law to the contrary it shall not be necessary for it to contain any further particulars other than necessary particulars.

(2) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all of the essential elements of the offence and where the offence is one created by an enactment may contain a reference to the enactment.

(3) Where an enactment applies to an act committed before its commencement a charge under the enactment in respect of that act shall contain a reference to the section of the enactment under which the accused is charged, although the enactment was not in force at the time when that act is alleged to have been committed.

(4) After the statement of the offence, necessary particulars of the offence shall be set out in ordinary language, in which the use of technical terms is not required.

(5) The following rules are applicable in cases in which it may be necessary to refer to the ownership or description of property in a complaint, summons, warrant, charge sheet, or as indictment:

(*a*) if the property belonged to or was in the possession of more than one person, whether as partners in trade or otherwise, it may be laid in the name of one of these persons and any other or others. This rules applies to bodies corporate, clubs, societies, joint tenants, tenants in common, partners and trustees;

(*b*) property of a body corporate, club, or society having a recognised manager or agent in the Republic or a recognised secretary, may be laid as the property of the secretary, manager, or agent, and others, without naming the secretary, manager or agent;

(*c*) property belonging to or provided for the use of a public establishment, service or department, may be laid as the property of the Republic;

(*d*) coins and bank or currency notes may be described as money, and an averment as to money, so far as regards the description of the property, shall be sustained by proof of the amount of coin or of the bank or currency note, although the particular species of coin of which the amount was composed or the particular nature of the bank or currency note shall not be provided;

(*e*) property in a monument, memorial, tree, shrub or any other thing in a cemetery or burial place, or of a thing buried in a grave may be laid in the Republic;

(*f*) property in respect of a postal matter, or of a chattel, money or valuable security sent by post, or of a public telegraph line or works may be laid in the Republic.

Previous Acquittal or Conviction

113. Retrial

In accordance with clause (7) of article 19 of the Constitution, a person who has been once tried by a court of competent jurisdiction for an offence, and convicted or acquitted of the offence, shall not be tried again on the same facts for the same offence or any other offence of which that person could have lawfully been convicted at the first trial unless a retrial is ordered by a Court having power to do so.

114. Retrial on separate charge

*Omitted.*17(19)

115. Consequences supervening or not known at time of former trial

A person convicted or acquitted of an act causing consequences which together with the act constitute a different offence from that for which that person was convicted or acquitted, may be afterwards be tried for that last-mentioned offence, if the consequences had not happened at the time when that person was acquitted or convicted.

116. Original Court not competent to try subsequent charge

A person convicted or acquitted of an offence may be subsequently charged with and tried for any other offence constituted by the same acts which that person may have committed, if the Court by which that person was first tried was not competent to try the offence subsequently charged.

117. Proof of previous conviction or acquittal

(1) In an enquiry, trial or other proceedings under this Act, a previous conviction or acquittal may be proved, in addition to any other mode provided by any other enactment

(*a*) by an extract certified, and personally signed by the officer having the custody of the records of the Court in which the conviction or acquittal was recorded, to be a copy of the sentence or order or acquittal; or

(*b*) by a certificate signed by the officer in charge of the prison in which the punishment or a part of the punishment was inflicted, or by the production of the warrant of commitment under which the punishment was suffered,

together with, in each case, evidence as to the identity of the accused with the person so convicted or acquitted.

(2) A certificate in the form prescribed by the Minister responsible for the Police signed personally by an officer appointed by the Minister in that behalf, who has compared the fingerprints of an accused person with the fingerprints of a person previously convicted is prima facie evidence of the facts set forth in the certificate where it is produced by the person who took the fingerprints of the accused.

(3) A previous conviction in a place outside the Republic may be proved by

(*a*) the production of a certificate purporting to be signed personally by a police officer in the country where the conviction occurred, containing a copy of the sentence or order;

(*b*) the fingerprints or photographs of the fingerprints of the person convicted together with evidence that the fingerprints of the person convicted are those of the accused person; or

(*c*) a certificate personally signed by the officer appointed by the Minister under subsection (2) that the officer has compared the fingerprints or photographs of the person previously convicted with the fingerprints of the accused person and that they are those of one and the same person.

(4) A certificate issued in accordance with subsection (3) is prima facie evidence of the facts specified in the certificate without proof that the officer purporting to sign it did in fact sign it and was empowered to do so.

Offences by Aliens within Territorial Waters

118. Trial of aliens for offences committed in territorial waters

Proceedings for the trial of a person, who is not a citizen for a felony or a misdemeanour committed within the territorial waters of the Republic shall be instituted in accordance with article 88 of the Constitution.18(20)

Examination of Witnesses

119. Power to call and recall witnesses

*Repealed.*19(21)

120. Evidence to be given on oath

*Repealed.*20(22)

121. Certain scientific reports to be evidence in Courts

(1) A document purporting to be an original report signed by a Government medical practitioner, analyst, chemical examiner or geologist, or of an assayer or a mineralogist recognised by a Minister for the purposes of this section by notification published in the *Gazette*, on a substance or thing submitted for examination or analysis and report, may, if it is directed to the Court or is produced by a police officer to whom it is directed or any other person acting on behalf of the police officer, be used as evidence of the facts stated in that document in an enquiry, a trial, or any other proceedings under this Act.

(2) A document purporting to be an original report signed by a qualified medical practitioner relating to the nature or extent of the injuries of a person certified to have been examined by the practitioner may, if it is directed to the Court or is produced by a police officer to whom it is addressed or by a person acting on behalf of the police officer be admitted as evidence of the facts stated in that report in a trial before a District Court.

(3) A document purporting to be an original report signed by a person gazetted as holding the office of the chief transport officer or as an engineer transport officer relating to the condition of a motor vehicle or trailer, may, if it is directed to the Court or produced by a police officer to whom it is addressed or by a person acting on behalf of the police officer be admitted as evidence of the facts stated in that report in a trial before a District Court.

(4) For the purposes of subsection (3), **"motor vehicle"** and **"trailer"** have the meanings respectively assigned to them under the Road Traffic Ordinance.21(23)

(5) The Court may presume that the signature to the document is genuine, and that the person signing it held the office the person professed to hold or was recognised as an assayer or mineralogist at the time when that person signed the document.

(6) On receiving the report in evidence the Court shall, in the interests of justice, summon and examine the medical practitioner, analyst, chemical examiner, geologist, assayer or mineralogist, or a person gazetted in accordance with subsection (3), as a witness or cause evidence to be taken on commission under this Act as the case may require.

122. Documents or copies to be evidence

(1) Subject to this section where, at the trial of a person, it is necessary or desirable to produce an

official document issued by an authority or officer of the Armed Forces,

(*a*) a document purporting to be an original document signed by an officer of the Armed Forces, and certified by the officer having the custody of the document as being produced from the officer's custody, or

(*b*) a copy of a document or of an entry in a document which is certified and personally signed by the officer having the custody of the original document to be a true copy of the original document or entry,

may be admitted in evidence without the officer who signed or certified the document or copy or who has the custody of the original being called to attend to give evidence on oath, if the document or copy has been directed to the Court by the appropriate military authority, or is produced to the Court by the prosecutor or by a police officer.

(2) Where, at a trial, it is intended to put in evidence a document or copy as provided in subsection (1), the prosecution, at least two days before the accused is brought before the Court, shall serve written notice of the intention on the accused together with a copy of the relevant entry in, or part of, the document.

(3) The Court, for the purposes of this section may presume that the signature of a military authority or officer is genuine, and that the person signing or certifying had the requisite authority.

(4) This section shall not prevent the Court, in the interests of justice, from summoning or examining as a witness at any stage of the proceedings, the authority or officer concerned, or from causing that witness' evidence to be taken on commission under this Act.

123. Evidence of wife or husband of accused

*Repealed.*22(24)

Commissions for the Examination of Witnesses

124. Issue of commission for examination of witness

(1) Where the High Court or a Circuit Court is satisfied

(*a*) that examination of a witness is necessary for the ends of justice, and

(*b*) that the attendance of that witness cannot be procured without the delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable,

the Court may dispense with the attendance and issue a commission to a District Magistrate, within the area of whose jurisdiction the witness resides, to take the evidence of the witness.

(2) The Magistrate to whom the commission is issued shall proceed to the place where the witness is or shall summon the witness and after the Magistrate is satisfied that sufficient notice has been given to the parties to the proceedings, the Magistrate shall take down the evidence of the witness in the same manner, and may for this purpose exercise the same powers, as in the case of a trial.

125. Application for issue of commission

Where in the course of an enquiry, a trial, or any other proceedings under this Act before a District Magistrate it appears

(*a*) that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and

(*b*) that the attendance of that witness cannot be procured without the delay, expense, or inconvenience which in the circumstances of the case, would be unreasonable,

the Magistrate shall apply to the High Court or a Circuit Court stating the reasons for the application; and the Court may issue a commission in the prescribed manner provided or reject the application.

126. Parties may examine witnesses

(1) The parties to proceedings under this Act in which a commission is issued may respectively forward the interrogatories in writing which the Court directing the commission may think relevant to the issue, and the District Magistrate to whom the commission is directed shall examine the witness on those interrogatories.

(2) A party to proceedings under this Act may appear before the Magistrate by counsel, or in person, and may examine, cross-examine, and re-examine the witness.

(3) It is not necessary for the deposition to be taken in the presence of the accused if the accused or counsel of the accused had the opportunity to cross-examine the witness.

127. Return of commission

(1) After the commission issued under section 124 or section 125 has been duly executed it shall be returned, together with the deposition of the witness examined to the Court which issued it and the commission, the return of the commission, and the deposition shall be open, during normal working hours, to inspection of the parties, and may, subject to the just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) A deposition so taken may also be received in evidence at any subsequent stage of the case before another Court.

128. Adjournment of enquiry or trial

Where a commission is issued under section 124 or 125 the enquiry, trial, or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Evidence for Defence

129. Evidence of witnesses

(1) A person charged and called as a witness under this Act shall not be asked, and if asked shall not be required to answer, a question tending to show that the witness has committed, or has been convicted of, or has been charged with, an offence other than that with which the witness is then charged, or that the witness is of bad character, unless,

(*a*) the proof of the witness having committed or having been convicted of the other offence is admissible evidence to prove the offence then charged; or

(*b*) the witness has personally or by counsel asked questions of a witness for the prosecution with a view to establishing the witness's own good character or has given or called evidence of the accused's own good character.

(2) Paragraph (*b*) of subsection (1) does not authorise the accused to be asked or to require the accused to answer a question tending to show that the accused has committed or has been convicted of or been charged with an offence other than that with which the accused is charged or an offence involving dishonesty or false statement.

(3) A person called as a witness in pursuance of this Act shall, unless otherwise ordered by the Court, give evidence from the witness box or any other place from which the other witnesses give their evidence.

130. Evidence of person charged

*Repealed.*23(25)

131. Alibi

(1) Where an accused intends to put forward as a defence a plea of alibi, the accused shall give notice of the alibi, to the prosecutor or counsel with particulars as to the time and place and of the witnesses by whom it is proposed to prove,

(*a*) prior, in the case of a summary trial, to the examination of the first witness for the prosecution, and

(*b*) prior, in the case of trial on indictment, to the sitting of the trial Court on the date to which the case of trial has been committed for trial.

(2) Where the notice is given the Court may, on the application of the prosecution, grant a reasonable adjournment.

(3) Where the accused puts forward a defence of alibi without having given notice, the Court shall call on the accused to give notice to the prosecution of the particulars mentioned in subsection (1) forthwith or within the time allowed by the Court and after the notice has been given shall, if the prosecution so desires, adjourn the case.

(4) Where the accused refuses to furnish the particulars as required the case shall proceed but evidence in support of a plea of alibi is not admissible in evidence.

132. Right of reply

(1) Where the right of reply depends on the question whether evidence has been called for the defence, the calling of the accused as a witness shall not of itself confer on the prosecution the right of reply.

(2) Any of the following officers when appearing personally as counsel for the prosecution shall, have the right of reply, namely,

(*a*) the Attorney-General, the Deputy Attorney-General, the Solicitor-General, the Director of Public Prosecutions or the Director of Legislative Drafting;

(*b*) a Chief State Attorney, Principal State Attorney, Senior State Attorney or State Attorney;

(*c*) a Police Officer who is not less than three years standing as a lawyer.

Lunacy of Accused and Defence of Lunacy

133. Enquiry as to lunacy of accused

(1) Where in the course of a trial or preliminary proceedings the Court has reason to believe that the accused is of unsound mind and consequently incapable of making a defence, it shall enquire into the fact of the unsoundness by causing the accused to be medically examined and shall after the examination take medical and any other available evidence regarding the state of the accused's mind.

(2) Where the Court is satisfied from evidence on oath that there is a prima facie case against the accused, but is of opinion that the accused is of unsound mind and consequently incapable of making a defence, it shall record a finding to that effect and postpone further proceedings in the case.

(3) Where the case is one in which bail may be taken, the Court may release the accused on sufficient security being given that the accused shall be properly taken care of and shall be prevented from causing personal injury or injury to any other person, and for the accused's appearance at a stated time, or when required, before the Court or an officer appointed in that behalf by the Court.

(4) Where the case is one in which bail may not be taken, or if sufficient security is not given, the Court

(*a*) shall order the accused to be detained in safe custody in a place and manner it may determine, and

(*b*) shall transmit the Court record or a certified copy of the record to the Minister through the Judicial Secretary.

(5) On consideration of the record the Minister may by warrant signed personally by the Minister directed to the Court order the accused to be confined as a criminal lunatic in a lunatic asylum or other suitable place of custody and the Court shall give the directions necessary to carry out the order.

(6) A warrant of the Minister under subsection (5) is sufficient authority for the detention of the accused until the Minister makes a further order in the matter or until the Court finding the accused incapable of making a defence orders the accused to be brought before it again in the manner prescribed under sections 134 and 135.

134. Procedure when certified as capable of making a defence

(1) Where an accused confined in a lunatic asylum or other place of custody under section 133 is found by the medical officer in charge of the asylum or place to be capable of making a defence, the medical officer shall forthwith forward a certificate to that effect to the Attorney-General.

(2) The certificate shall state whether, in the opinion of the medical officer, the accused person is fit to be unconditionally discharged.

(3) The Attorney-General shall on receipt of the certificate inform the Court which recorded the finding against the accused under section 133 whether it is the intention of the Republic that the proceedings against the accused shall continue or otherwise.

(4) In the former case the Court shall order the removal of the accused from the place of detention and shall cause the accused to be brought in custody before it in the manner described by section 135.

(5) Where the Attorney-General informs the Court that the Republic does not intend to continue the proceedings,

(*a*) if the medical officer has certified that the accused is fit to be unconditionally discharged, the Court shall forthwith make an order for the accused's release; and

(*b*) in any other case, the Court shall make a note on the record to that effect, and the accused may be dealt with in like manner as a criminal lunatic under subsections (3) to (5) of section

135. Resumption of proceedings

(1) After a postponement under section 133, the Court may at any time, subject to section 134, resume the preliminary proceedings or trial and require the accused to appear or be brought before the Court, and if the Court considers the accused capable of making a defence, the preliminary proceedings or trial shall proceed, or begin *de novo*, as the Court considers proper.

(2) A certificate given to the Attorney-General under section 134 may be given in evidence in proceedings under this section without further proof unless it is proved that the medical officer purporting to sign it did not in fact sign it.

(3) Where the Court considers the accused as still incapable of making a defence it shall act as if the accused were brought before it for the first time.

136. Defence of lunacy at preliminary proceedings

Where the accused appears to be of sound mind at the time of the preliminary proceedings the Court, although that it is alleged that at the time when the act was committed, in respect of which the accused person is charged, the accused was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, shall proceed with the case, and, if the accused ought to be committed for trial on indictment the Court shall commit the accused.

137. Defence of lunacy on trial on indictment

(1) Where a person is charged with an offence and evidence at the trial shows that person as being so insane as not to be responsible according to section 27 or 28 of the Criminal Offences Act, 1960 (Act 29) for that person's action, then, if it appears to the Court or in the case of a trial by jury if it appears to the jury that, that person did the act charged but was insane at the time when the act was committed, the Court or jury shall return a special verdict to the effect that the accused is guilty of the offence charged but was insane when it was done.24(26)

(2) Where the special verdict is found the Court shall forward the court record or a certified copy of the court record to the Minister and shall order the accused to be kept in custody as a criminal lunatic, in a place, and in a manner directed by the Court till the President's pleasure is known.

(3) The Minister may

(*a*) signify the President's pleasure by warrant signed personally by the Minister,

(*b*) from time to time give an order for the safe custody of the accused as a criminal lunatic during pleasure in a place of detention, prison or any other suitable place of custody and in a manner the Minister considers fit.

(4) The Minister may by warrant signed personally by the Minister, at any time discharge a criminal lunatic from custody.

(5) A discharge under subsection (4) may be absolute or subject to the conditions the Minister imposes.

(6) Where a criminal lunatic is conditionally discharged under this section, reports on the criminal lunatic shall be made to the Minister at the times, and by the persons, and containing the particulars specified in the warrant of discharge.

(7) The Minister may at any time revoke a conditional discharge if it appears to the Minister that any of the conditions imposed has been contravened or not complied with, or for any other cause which the Minister considers sufficient, and the Minister may by warrant direct that the criminal lunatic be again kept in custody during pleasure and be detained in a place and in a manner the Minister considers appropriate.

138. Procedure when accused does not understand proceedings

(1) Where the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the preliminary proceedings or trial.

(2) In the case of a Court other than the High Court, if the investigation results in a committal for trial, or if the trial results, in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances, and the High Court shall make an appropriate order.

Costs and Compensation

139. Costs against accused and against private prosecutor

*Repealed.*25(27)

140. Order to pay costs appealable

*Repealed.*26(28)

141. Compensation in case of frivolous or vexatious charge

(1) Where on the discharge or acquittal of an accused the Court is of opinion that the charge was frivolous or vexatious, the Court may order the complainant to pay to the accused a reasonable sum of money not exceeding an amount of money equivalent to five penalty units as compensation for the trouble and expense to which the accused person may have been put by reason of the charge.27(29)

(2) This section does not apply to a police officer acting *bona fide* in the course of official duties.

(3) A person who has been directed to pay compensation under this section shall not by reason of the order, be exempted from civil or criminal liability in respect of the complaint made by that person.

(4) An amount paid to an accused under this section shall be taken into account in awarding compensation to the accused in a subsequent civil suit relating to the same matter.

(5) A complainant who has been ordered under subsection (1) to pay compensation may appeal from the order, where the order relates to the payment of the compensation, as if it were an appeal against a conviction.

(6) When an order for payment of compensation is made in a case which is subject to appeal under subsection (5), the compensation shall not be paid to the accused before the period allowed for the presentation of the appeal has elapsed, or if an appeal is presented, before the appeal has been decided and, where the order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of the month from the date of the order.

142. Recovery of costs and compensation

The sum of money allowed for compensation shall be specified in the conviction or order, and is

recoverable in like manner as a penalty may be recovered under this Act, and in default of payment of compensation or of distress, the person in default is liable to imprisonment with or without hard labour for term not exceeding three months unless the compensation is sooner paid.28(30)

143. Award of expenses or compensation out of fine

*Repealed.*29(31)

Disposal and Restitution of Articles and Property

144. Order for destruction of articles

(1) Although there may be a provision to the contrary in this Act or in any other enactment, when a person is convicted of an offence the Court may make the orders that it considers fit for the destruction or for the forfeiture and disposal of an article produced before it regarding which an offence appears to have been committed, or which has been used for the commission of an offence.

(2) When an order is made under subsection (1), where an appeal lies, the order shall not, except when the article is live-stock or is subject to speedy and natural decay, be carried out until the period allowed for presenting an appeal has passed or, when an appeal is presented within that period, until the appeal has been disposed of.

(3) In this section, **"article"** includes, in the case of an article regarding which an offence appears to have been committed, the original article and any other article or property into or for which, it may have been converted or exchanged and anything acquired by the conversion or exchange whether immediately or otherwise.

(4) Where the Court under this section orders the forfeiture of an article but does not give directions as to its disposal, the article shall be disposed of in accordance with the directions of the Minister.

(5) An order shall not be made under this section in respect of an article unless the article is owned by the accused, or is in the possession of the accused with the consent of the owner in circumstances which show that the owner was aware that an offence would be committed in respect of that article, or that it would be used for the commission of an offence.

(6) A person who claims to be the owner of the article is entitled to appear and be heard before an order is made under this section.

(7) For the purposes of this subsection (6), **"owner"** includes a person with an interest in the article.

145. Restitution of property found on person arrested

Where, on the arrest of a person charged with an offence, property is taken from that person, the Court before which that person is charged may order that the property or a part of the property be restored to the person who appears to the Court to be entitled to the property, and, where that person is the person charged, that it be restored to that person or to any other person the Court may direct, or that it be applied to the payment of the compensation directed to be paid by the person charged.30(32)

146. Restitution of property stolen

Where a person is convicted of having stolen or having obtained property fraudulently or by false pretences, the Court convicting that person may order that the property or a part of the property be restored to the person who appears to the Court to be entitled to it.

147. Restriction on disposal of property of accused person

Where money or any other property in respect of which a person is charged before a Court with an offence involving dishonesty is in the custody or possession of a person other than the accused, the trial Court

(*a*) of its own motion or on the application of the prosecutor or the alleged victim of the offence, or

(*b*) any other Court on the application of the prosecutor or the alleged victim of the offence,

may order that the person in whose custody or possession the money or property is shall not part with or dispose of the money or property until directed by the Court.31(33)

147A. Payments of money made by accused persons

(1) Where a person convicted of an offence involving dishonesty has, since the commission of the offence, made payments of money or transferred property to any other person, the payments or transfers shall be considered to have been made out of the proceeds of the offence, and accordingly the Court may, on the application of the prosecutor or the victim of the offence, order the person to whom the payments or transfers have been made to return the money or property to the person specified by the Court unless it is shown to the satisfaction of the Court by the person in respect of whom the order has been made

(*a*) that valuable consideration was given commensurate with payments of money or transfers of property made to that person, or

(*b*) that that person is a dependant of the person convicted and that the payments of money were that person's reasonable living expenses made as dependant.

(2) An order under subsection (1) is, for the purposes of this Act, an exercise of the civil jurisdiction of the Court in an action between the person in whose favour the order has been made as plaintiff and the person against whom the order has been made as defendant, and is enforceable in the manner and is subject to an appeal as are orders for the return of money.

(3) Although the value of the money or property exceeds the limits of the civil jurisdiction of the Court, the Court shall have jurisdiction under this section.

147B. Order for recovery of property or its value

(1) Where sentence is imposed for an offence involving dishonesty and property including money is not recovered, the Court, on sentencing the offender, on its own motion or on the application of the prosecutor or the victim of the offence, may make an order for the return by the offender to the victim of the property not recovered and for payment, in default, of the value of the property not returned.

(1a) Where sentence is imposed for an offence involving an act of terrorism, the court on sentencing the offender, on its own motion or on the application of the prosecutor or the victim of the offence may make an order for the offender to pay for the value of any property damaged as a result of the terrorist act without limiting any civil action the victim may take.31a(34)

(2) An order under subsection (1) is, for the purpose of this Act, an exercise of the civil jurisdiction of the Court in an action between the victim of the offence as plaintiff and the offender as defendant, and is enforceable in the manner and is subject to an appeal as are orders for the return of chattels or of money.

(3) Where there is a dispute as to the value of the property the issue shall be tried by the Court as if it

were a civil action.

(4) Although the value of the property involved exceeds the limits of the civil jurisdiction of the Court, the Court shall have jurisdiction under this section.

(5) An order under this section may be enforced during the term of the sentence imposed, or at any time within ten years after the expiry of the sentence.

147C. Definition of an offence involving dishonesty

For the purposes of sections 147, 147A and 147B, an offence involving dishonesty means any of the following offences under Chapter 1 of Part Three of the Criminal Offences Act, 1960 (Act 29), namely, stealing, fraudulent breach of trust, robbery, extortion, defrauding by false pretences and dishonest receiving.

148. Offender to make compensation

(1) A person who is convicted of felony or misdemeanour may be ordered by the Court to make compensation to any other person injured by that offence.

(2) A person who is convicted of an offence on summary conviction may be ordered by the Court to make compensation, not exceeding an amount of money equivalent to five hundred penalty units, to any other person injured by that offence.32(35)

(3) The compensation may be in addition to or in substitution for any other punishment.

149. Effect of payment of compensation

Where a person who is injured by an offence receives compensation for the injury under the order of the Court, the receipt of compensation shall be taken into account in assessing damages in a civil action for the same injury.

150. Property in possession of police

Where property has come into the possession of the Police in connection with a criminal offence it shall be dealt with in accordance with section 3533(36) of the Police Service Act, 1970 (Act 350).

151. Regulations relating to unclaimed property in possession of police

Repealed.34(37)

Summary Procedure in Perjury

152. Perjury

(1) Where it appears to it that a person is guilty of perjury in a proceeding before it, the Court may

(*a*) commit that person for trial on indictment for perjury and bind any other person by recognisance to give evidence at the trial; or

(*b*) commit that person to prison for a term not exceeding six months with or without hard labour, or impose a fine not exceeding one hundred and fifty penalty units, or impose both penalties on that person in each case as for a contempt of court.35(38)

(2) Where the Court is a District Court, the penalties shall be limited to three months' imprisonment or to a fine not exceeding one hundred penalty units or to both the imprisonment and the fine.36(39)

(3) On imposing a penalty as for a contempt of court under this section,

(*a*) the Magistrate shall make and keep a minute recording the facts of the penalty; and

(*b*) the Magistrate shall forthwith send a copy of the minute to the appropriate Justice of the High Court.

(4) Except where the order of the Magistrate is set aside by a Justice of the High Court, a penalty imposed under this section is a bar to any other criminal proceedings in respect of the same offence.

Convictions for Offence Other than Charged

153. Person accused of an offence may be convicted of attempt

(1) A person charged with an offence may be convicted of having attempted to commit that offence although the attempt is not separately charged.

(2) Where a person is charged with an attempt to commit an offence and the evidence establishes the commission of the offence, the accused may not be convicted of the offence but may be convicted of the attempt.

154. When offence proved is included in offence charged

(1) Where a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete lesser offence, and the combination is proved but the remaining particulars are not proved, that person may be convicted of the lesser offence although not charged with it.

(2) Where a person is charged with an offence and facts are proved which reduce it to a lessor offence, that person may be convicted of the lesser offence although not charged with it.

155. Conviction of extortion on charge of corruption

(1) Where a person is charged with an extortion as a public officer or juror and corruption is proved, that person may be convicted of corruption although not charged with that offence.

(2) Where a person is charged with corruption as a public officer or juror and extortion is proved, that person may be convicted of extortion although not charged with that offence.

156. Conviction of receiving on charge of stealing

Where a person is charged with stealing a thing and receiving the thing knowing it to have been stolen is proved that person may be convicted of receiving although not charged with that offence.

157. Conviction of false pretences on charge of stealing

(1) Where a person is charged with stealing a thing and it is proved that the thing was obtained in a manner that would amount under the Criminal Offences Act, 1960 (Act 29) to defrauding by false pretences, that person may be convicted of defrauding by false pretences although not charged with that offence.

(2) Where a person is charged with defrauding by false pretences and stealing is proved that person may be convicted of stealing it although not charged with that offence.

158. Conviction of extortion on charge of robbery

(1) Where a person is charged with robbery and extortion is proved that person may be convicted of robbery although not charged with that offence.

(2) Where a person is charged with extortion and robbery is proved that person may be convicted of robbery although not charged with that offence.

159. Conviction of kindred offence on charge of rape or defilement

(1) Where a person is charged with rape, unnatural carnal knowledge or defilement and the original charge is not proved, that person may be convicted of the lesser offence of indecent assault although not charged with that offence.

(2) Where a person is charged with an offence under section 106 of the Criminal Offences Act, 1960 (Act 29) (which relates to a householder permitting defilement of a child on premises belonging to the householder) the householder may be convicted of an offence under section 273 of the Criminal Offences Act, 1960 (Act 29) (which relates to permitting persons under sixteen years to be in brothels) although that person was not charged with that offence.37(40)

160. Conviction of treason-felony or charge of treason

*Repealed.*38(41)

161. Conviction of motoring offence on charge of manslaughter

Where a person is charged with manslaughter in connection with the driving of a motor vehicle by that person and the Court finds that person not guilty of that offence but is guilty of an offence under the Road Traffic Act, 2004 (Act 683) that person may be convicted of that offence although not charged with it.

162. Conviction on other charges pending

Where an accused person is found guilty of an offence, the Court may, in passing sentence, take into consideration any other charge then pending against the accused if the accused admits the other charge and desires it to be taken into consideration and if the prosecutor of the other charge consents.

PART THREE

Summary Trial

163. Summary trial

(1) A reference in an enactment to an offence as a summary offence, triable summarily, or punishable summarily, means that the offence shall be tried in accordance with this Part.

(2) Where it is not provided as to whether an offence is triable summarily or on indictment, the offence shall be triable as a summary offence.39(42)

164. Application

This Part applies to the summary trial of an offence by a District Court, a Circuit Court or the High Court.

Procedure on Summary Trial

165. Publicity

The room or place in which the Court sits to hear and determine a charge is an open and public Court, to which the public generally may have access as far as it can conveniently contain them.

166. Non-appearance of prosecutor

(1) Where the accused comes before the Court on summons or warrant, or otherwise, originally or on adjournment, then if the prosecutor, having had notice of the time and place appointed for the hearing or adjourned hearing of the charge, does not appear, the Court shall dismiss the charge, unless the Court thinks it proper to adjourn or further adjourn the hearing of the case to another date, on the terms determined by the Court.

(2) Where the accused does not appear personally and pleads guilty in writing or by counsel under section 70, the Court may proceed to conviction although the prosecutor or the counsel of the accused is absent.

167. Non-appearance of accused

Where the accused does not appear personally and does not plead guilty in writing or by counsel under section 70, the Court shall issue a warrant to arrest the accused and cause the accused to be brought before the Court as provided for under section 72.

168. Appearance of both parties

Where at the time appointed for the hearing of the case both the prosecutor and the accused are present before the Court, or if the prosecutor appears personally or by counsel and the personal attendance of the accused person has been dispensed with under section 70, the Court shall proceed to hear the case.

169. Adjournment

(1) Before or during the hearing of a case, the Court

(*a*) may adjourn the hearing to a certain time and place to be then appointed and stated in the presence and hearing of the parties or their respective counsel then present, and

(*b*) in the meantime may suffer the accused to go at large, or may commit the accused to prison, or may release the accused on the entry into a bond with or without sureties, conditioned for the accused person's appearance at the time and place to which the hearing or further hearing is adjourned.

(2) The adjournment shall not be for more than thirty clear days or if the accused person has been committed to prison, for more than fourteen clear days.40(43)

(3) The day following that on which the adjournment is made shall be counted as the first day.

170. Non-appearance of parties after adjournment

(1) Where at the time or place to which the hearing or further hearing has been adjourned, the accused does not appear before the Court which made the order of adjournment, the Court may, unless the accused person is charged with felony, proceed with the hearing or further hearing as if the accused were present.41(44)

(2) Where a Court is satisfied that a person accused of an offence who is bound by bond to appear at a hearing or adjourned hearing of the case, is by reason of illness or accident unable at the date of the hearing or further hearing to appear personally before the Court, it may, in the absence of the accused, order a further adjournment for a time that is lawful and reasonable and the time conditioned in the accused's bond shall be considered to be varied accordingly.

(3) Where the Court convicts the accused in the absence of the accused, it may set aside the conviction on being satisfied that the absence of the accused was from causes over which the accused did not have a control, and that the accused had a probable defence on the merits.

(4) Where a sentence is passed in the accused's absence under subsection (1), the Court shall give directions for the carrying out of the sentence and shall issue its commitment or other warrant and in addition to authorising the carrying out of the sentence, the warrant shall, if necessary, be deemed to authorise the arrest of the convicted person for the purpose of carrying out the sentence.

(5) The person effecting an arrest shall endorse the date of the arrest on the back of the warrant and the sentence of imprisonment imposed on a person arrested on that warrant shall commence from the date of that person's arrest.

(6) Where an accused who has not appeared is charged with felony, or if the Court, refrains from convicting the accused in the absence of the accused, the Court shall issue a warrant for the arrest of the accused and for the accused to be brought before the Court.

171. Accused to be called upon to plead

(1) Where the accused appears personally or by counsel as provided under section 79, the substance of the charge contained in the charge sheet or complaint shall be stated and explained to the accused or if the accused is not personally present to the counsel of the accused, and the accused or counsel of the accused shall be asked to plead guilty or not guilty.

(2) In stating the substance of the charge, the Court shall state particular of the date, time, and place of the commission of the alleged offence, the person against whom or the thing in respect of which it is alleged to have been committed, and the section of the enactment creating the offence.

(3) A plea of guilty shall be recorded as nearly as possible in the words used, or if there is an admission of guilt by letter under section 70 (1), the letter shall be placed on the record and the Court shall convict the accused and pass sentence or make an order against the accused unless there appears to it sufficient cause to the contrary.

(4) Where the plea is one of not guilty the Court shall proceed to hear the case.

(5) Where the accused or counsel for the accused, refuses to plead, or if the accused does not appear and the Court decides to hear the case in the absence the accused in accordance with section 170, a plea of not guilty shall be entered and the plea so entered shall have effect as if it had been actually pleaded.

172. Procedure on plea of not guilty

(1) Where the accused does not plead guilty to the charge, the Court shall proceed to hear the evidence that the prosecutor adduces in support of the charge.

(2) The accused or the counsel of the accused may put questions to each witness produced against the accused.

(3) Where the accused does not employ a counsel, the Court shall, at the close of the examination of each witness for the prosecution, ask the accused whether the accused wishes to put questions to that witness and shall record the answer of the accused.

(4) Where the accused instead of questioning the witness makes a statement regarding the evidence of that witness, the Magistrate shall, if desirable in the interest of the accused, put the substance of the statement to the witness in the form of questions.

173. Acquittal of accused when no case to answer

Where at the close of the evidence in support of the charge, it appears to the Court that a case is not made out against the accused sufficiently to require the accused to make a defence, the Court shall, as to that particular charge, acquit the accused.

174. The defence

(1) At the close of the evidence in support of the charge, if it appears to the Court that a case is made out against the accused sufficiently to require the accused to make a defence, the Court shall call on the accused to make the defence and shall remind the accused of the charge and inform the accused of the right of the accused to give evidence personally on oath or to make a statement.

(2) The Court shall then hear the accused if the accused desires to be heard and the evidence the accused may adduce in defence.

(3) Where the accused states that there are witnesses to call but that the witnesses are not present in Court, and the Court is satisfied

(*a*) that the absence of the witnesses is not due to a fault or neglect of the accused, and

(*b*) that there is a likelihood that they could, if present, give material evidence on behalf of the accused,

the Court may adjourn the trial and issue process, or take other steps, to compel the attendance of the witnesses.

(4) Where the accused has examined the witnesses or given evidence other than evidence relating to the accused's general character, the Court may grant leave to the prosecutor to give or adduce evidence in reply.

175. Address to the Court

(1) The prosecutor or counsel of the prosecutor is entitled to address the Court at the commencement of the prosecutor's case and, where the accused has called witnesses, other than witnesses as to the accused's general character, also at the conclusion of the case for the defence.

(2) The accused or the counsel of the accused is entitled to address the Court at the commencement or in conclusion of the case of the accused as the accused considers fit.

(3) Except with the leave of the Court, the accused or counsel of the accused is not entitled to address

the Court on evidence adduced by the prosecutor in reply.

176. Variance between charge and evidence

(1) Where at any stage of a summary trial before the close of the case for the prosecution, it appears to the Court that the charge is defective, in substance or in form, the Court may make an order for the amendment of the charge or by the substitution or addition of a new charge as the Court considers necessary to meet the circumstances of the case.

(2) Where the charge is amended the Court shall call on the accused to plead to the amended charge.

(3) Where the charge is amended under subsection (1), the accused may require the recall of the witnesses or any of them and further cross examined by the accused or counsel of the accused and the prosecution shall have the right to re-examine any of the witnesses on matters arising out of the further cross-examination.

(4) A variance between the charge and the evidence adduced in support of it with respect to the time at which the alleged offence was committed is not material, and the charge need not be amended for the variance if it is proved that the proceedings were in fact instituted within the time limited by law for the institution of the proceedings.

(5) Where an amendment of a charge is made under subsection (1), or where there is a variation between the charge and the evidence as described in subsection (4), the Court shall, if it is of opinion that the accused has been thereby misled or deceived, adjourn the trial for a period that is reasonably necessary, having regard to this Act.

(6) Where it appears to the Court that the variance has deceived or misled the accused, the Court may, on the terms that it considers fit, adjourn the hearing of the case to a future day.

(7) Where a variance appears, the Court may make an amendment of the summons, complaint, or charge sheet that it considers fit and may permit a witness to be recalled and further questioned on a matter relevant to the variance or amended charge.

177. The decision

(1) The Court, having heard the totality of the evidence, shall consider and determine the whole matter and may

(*a*) convict the accused and pass sentence on, or make an order against, the accused according to law, or

(*b*) acquit the accused, and the Court shall give its decision in the form of an oral judgment,

and shall record the decision briefly together with the reasons for it, where necessary.

(2) The Court may receive evidence to inform itself as to the sentence proper to be passed and in the event of the Court convicting or making an order against an accused in respect of which an appeal lies, the Court shall inform the accused of the right to appeal at the time of entering the conviction or making the order.

(3) The conviction or order may, if required, be afterwards drawn up and shall be signed by the Court making the conviction or order, or by the clerk or other officer of the Court.

178. Committal for sentence

*Repealed.*42(45)

179. Offences unsuitable for summary determination

(1) Where it appears to the Court at any stage of a summary trial of an offence which is also punishable on indictment that the case is unsuitable for summary trial, the Court may inform the Attorney-General of its opinion and adjourn the proceedings for not more than fifteen days to await the reply of the Attorney-General.

(2) Where, within that time, the Court is notified by or on behalf of the Attorney-General that it is proposed to prosecute the accused on indictment the Court shall follow the procedure laid down in Part Four, and, in the case of a trial by the High Court or a Circuit Court, shall have the powers of a District Court under that Part.

(3) In any other case, the Court shall proceed with the summary trial of the offence.

180. Questions of title to land involved

*Repealed.*43(46)

180A. Repealed

*Repealed.*44(47)

PART FOUR

Committal for Trial for Indictable Offence

Preliminary Hearing by District Court

181. Procedure

When a person is before a District Court charged with an offence which is not being tried summarily there shall be a preliminary hearing of the case by the Court, at which the procedure laid down in this Part shall be followed.

182. Bill of indictment and summary of evidence

(1) The prosecution shall furnish the Court and the accused with

(*a*) a bill of indictment which shall state in writing the charge against the accused, and

(*b*) a summary of evidence which shall comprise a list of the witnesses who the prosecution proposes to call at the trial and a summary of the evidence to be given by each witness and a list of the documents and things it proposes to put in evidence at the trial.

(2) The bill of indictment shall comply with sections 201 and 202 as to form and content.

(3) The bill of indictment and summary of evidence may, by leave of the Court, be amended or added to at any time during the proceedings.

(4) The prosecution shall, unless the Court otherwise directs, deliver into the custody of the Court the documents and things which, according to the summary of evidence, are intended to be put in evidence at the trial.

(5) The registrar of the Court to which the documents and things referred to in subsection (4) are delivered is responsible for the custody of those documents and things and shall, for that purpose,

(*a*) as far as may be practicable, affix or make identifying marks on those documents and things; and

(*b*) maintain a book in which the registrar shall enter a complete description of those documents and things together with particulars of those identifying marks and sign the entry.

183. Authentication of indictment and summary of evidence

The bill of indictment and summary of evidence shall be signed by the Attorney-General or by a person authorised by the Attorney-General in that behalf.

184. Conduct of preliminary hearing

(1) The prosecution may address the Court in explanation of the case against the accused.

(2) An address may be made in reply by or on behalf of the accused.

(3) The address shall not be recorded but the accused may make a statement to be recorded under section 187.

(4) Where the Court is of opinion that there is a case for the accused to answer, it shall commit the accused for trial to a court of competent jurisdiction, in this Part referred to as the trial Court.

(5) Where the Court is of opinion that there is no case for the accused to answer it shall discharge the accused, but, subject to clause (7) of article 19 of the Constitution, the discharge shall not be a bar to a subsequent charge in respect of the same facts.

185. A public Court

The room or place in which the proceedings are held is, in accordance with clause (3) of article 126 of the Constitution, a public place but, the Court may, if it considers that the ends of justice will be best served by so doing, order that a person shall not have access to, or be, or remain in that room or place without the express permission of the Court.

186. Adjournments

The provisions of section 169 which relates to adjournment shall apply to the proceedings.

187. Taking statement of accused person

(1) The Court shall, before deciding whether to commit the accused for trial, address to the accused the following words or words to the like effect:

> "Before deciding whether to commit you for trial, I wish to know if you have anything to say in answer to the charge. You are not obliged to say anything but if you have an explanation it may be in your interest to give it now. What you wish to say will be taken down in writing and if you are committed for trial it may be given in evidence. If you do not give an explanation your failure to do so may be the subject of comment by the judge, the prosecution or the defence."

(2) The Court shall comply with the rules set out in the Sixth Schedule as to the taking of a statement.

(3) The statement of the accused in answer to the charge shall be recorded in full and shall be shown or read over to the accused who shall be at full liberty to explain or add to the statement.

(4) When the whole statement is made conformable to what the accused declares to be the truth, the statement shall be attested by the District Magistrate, who shall certify that the statement was taken in the Magistrate's presence and hearing and contains accurately the whole statement made by the accused.

(5) The accused shall sign or attest by mark the record and where the accused refuses, the Court shall add a note of the accused's refusal and the statement may be used as if the accused had signed or attested it.

(6) A person requested to make a statement under this section is entitled to do so without being sworn.

(7) The failure of a person charged with an offence to make a statement under this section may be the subject of comment by the judge, the prosecution or the defence.

188. Witnesses for the defence

(1) The Court, on committing the accused for trial, shall ask the accused whether the accused desires to call witnesses at the trial.

(2) Where the accused states the desire to call witnesses, the Court shall cause to be taken down in writing the name, address and any other necessary particulars of each witness.

(3) Where a witness is present in Court, the Court may bind the witness by recognisance, with or without a surety, to appear at the trial to give evidence.

(4) The Court shall inform the accused of the accused's right to require the attendance at the trial of a witness and of the steps to be taken by the accused for the purpose of enforcing the attendance.

(5) The accused may give notice to the District Court at any time before the date to which the accused has been committed for trial and at any time after that to the registrar of the trial Court of the desire of a witness to attend at the trial and the Court or registrar shall cause a summons to be served on the witness for the attendance at the trial.

189. Refusal to enter into recognisance

(1) Where a witness refuses to enter into a recognisance the Court may commit the witness to prison or into the custody of any officer of the Court, there to remain until after the trial, unless in the meantime the witness enters into a recognisance.

(2) Where afterwards from want of sufficient evidence or other cause, the accused is discharged, the Court shall order the discharge of the person imprisoned for so refusing.

190. Order of committal for trial

(1) The order of the District Court committing an accused for trial shall name the day, time and place at which the accused is to appear before the trial Court in answer to the indictment.

(2) The day named for the accused to appear before the trial Court shall not be more than one month after the date of committal.

(3) A committal for trial shall not be invalidated by reason only of a failure to comply with subsections (1) and (2).

(4) The District Court shall admit the accused to bail or send the accused to prison for safe keeping

until the day so named.

(5) The warrant of the District Court is sufficient authority to the keeper of the prison appointed for the custody of prisoners committed for trial although the prison is outside the area of jurisdiction of the Court.

191. Option of accused respecting trial

(1) Where the charge is one in which an option is given to the accused, the Court on committing the accused for trial on indictment shall, ascertain the accused's desire to be tried with a jury or by the Court with assessors.

(2) The Court shall record and attest, by the accused's signature, the answer of the accused, who shall also sign or attest the record by mark.

(3) Where the accused refuses to do so, the Court shall add a note of the accused's refusal, and the answer shall be used as if the accused had signed it.

192. Proceedings against corporations

(1) A corporation may be charged, singularly or jointly with any other person, with an indictable offence and this Part shall, subject to this section, apply to the corporation as it applies to any other accused.

(2) The corporation may appear before the Court by a representative who shall answer the questions put under this Act on behalf of the corporation.

(3) Where the corporation does not appear it shall not be necessary to put the questions, and the Court may commit the corporation for trial.

(4) The corporation may, on arraignment before the trial Court, render in writing by its representative a plea of guilty or not guilty.

(5) Where the corporation does not appear by a representative, or, though it does so appear, fails to enter a plea, the Court shall proceed as though the corporation had duly entered a plea of not guilty.

(6) For purposes of this section **"representative"** in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing an act or a thing which the representative of a corporation is by this section authorised to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before a Court for any other purpose.

(7) A representative for the purpose of this section need not be appointed under the seal of the corporation.

(8) A statement in writing purporting to be signed by a managing director of the corporation, or by any other person having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section is admissible without further proof as prima facie evidence of the appointment of that person.

193. Returns to Court and Attorney-General

(1) On a committal for trial the bill of indictment, the summary of evidence, a recorded statement of the accused, the answer of the accused respecting the Court before which the accused desires to be tried,

the recognisances of the witnesses, and of the recognisances of bail, and any other documents and things which have been delivered into the custody of the District Court, shall be transmitted in proper time to the trial Court.

(2) An authenticated copy of the document referred to in subsection (1) shall be transmitted to the Attorney-General.

193A. Errors not to invalidate committal

Although there is a contrary provision of this Act, any error, omission or irregularity, in respect of a matter specified in section 181 to 193, during the preliminary hearing before a District Court of the case of an accused person, shall not invalidate the committal for trial, unless a District Magistrate or Justice is of opinion that the error, omission or irregularity is likely to occasion a substantial miscarriage of justice.

Preservation of Testimony in Certain Cases

194. Depositions of persons dangerously ill

Where it appears to a Justice or Magistrate that a person dangerously ill or hurt, and not likely to recover, is able and willing to give material information relating to an offence triable on indictment the Justice or Magistrate may take in writing the statement on oath or affirmation of that person and shall subscribe it, and certify that it contains accurately the whole of the statement made by that person, and shall add a personal statement containing the reasons for taking the statement and of the date and place when and where it was taken, and shall preserve the statement and file it for record.

195. Notices to be given in certain cases

(1) Where the statement relates or is expected to relate to an offence for which a person has been charged or in respect of whom there has been a committal for trial, reasonable notice of the intention to take it shall be served on the prosecutor and the accused.

(2) Where the accused is in custody, the accused may, and if the accused so requests shall, be brought by the person in whose charge the accused is, under an order in writing of the Justice or Magistrate, to the place where the statement is to be taken.

196. Transmission of statements

Where the statement relates to an offence for which a person is then or subsequently committed for trial, it shall be transmitted to the Court in which that person is to be tried, and a copy of the statement shall be transmitted to the Attorney-General.

197. Use of statement in evidence

On the trial of an offender or of an offence to which a statement so taken may relate, where the person who made the statement is proved to be dead or if it is proved that there is a reasonable probability of that person not being able to travel or to give evidence, the statement may be read in evidence for or against the accused person, without further proof of the statement if

(*a*) the statement purports to be signed by the Justice or Magistrate by or before whom it purports to be taken; and

(*b*) it is proved to the satisfaction of the Court that reasonable notice of the intention to take the

statement was served on the prosecutor or accused against whom it is proposed to be read in evidence, and that the prosecutor or the accused or their counsel had or might have had if present full opportunity of cross-examining the prosecutor or accused who made the statement.

Procedure before Trial Court

198. Directions for trial

(1) When the accused comes before the trial Court in pursuance of the committal order, the procedure laid down in this section shall be followed.

(2) The Court shall cause the bill of indictment to be read to the accused and if necessary explained to the accused.

(3) An objection by or on behalf of the accused to the indictment or the summary of evidence shall then be taken.

(4) The Court may cause the indictment to be amended and new counts to be added unless it is of opinion that, having regard to the merits of the case, the amendment cannot be made without injustice to the accused, and may direct a supplementary summary of evidence to be delivered to the accused and the Court.

(5) The Court may then require the accused to plead to the indictment or may postpone the taking of the plea to a later date that the Court may direct.

(6) The Court shall give directions as to the time, place and mode of trial.

199. Plea of guilty

(1) Where the accused pleads guilty to a charge, the Court before accepting the plea shall, if the accused is not represented by counsel, explain to the accused the nature of the charge and the procedure which follows the acceptance of a plea of guilty.

(2) The accused may then withdraw the plea and plead not guilty.

(3) A statement made by the accused in answer to the Court shall be recorded by the Court in writing and shall form part of the record of the proceedings.

(4) Where the accused pleads guilty but adds words indicating that the accused may have a defence or so indicates in answer to the Court, the Court shall enter a plea of not guilty and record it as having been entered by order of the Court.

(5) The Court shall not accept a plea of guilty in the case of an offence punishable by death.

(6) Where the Court decides not to alter the plea the Supreme Court shall have the right, on appeal against conviction, to order a re-trial if the Supreme Court is of opinion that a plea of not guilty should have been entered by the trial Court.

200. Evidence of witness before trial

(1) Where on the application of the prosecution or the accused it appears to the District Court conducting the preliminary hearing or the trial Court that a particular witness will not be available at the trial, the Court may, where it is satisfied that it would be in the interest of justice so to do, take the evidence of the witness and cause it to be recorded.

(2) The evidence may be read as evidence in a Court although the accused is not called as a witness.

(3) For the purposes of subsections (1) and (2), the Court may permit the party calling the witness to make a short statement of the facts which are necessary to enable the evidence of the witness to be understood and to be related to the charge and may also permit any other witness to be called and examined for the same purpose.

(4) Unless the Court, on hearing the applicant, decides to refuse the application, the Court shall direct service of the notice of the application on the other party and order the applicant to attend on a named day for the further hearing.

(5) In the case of an application under this section the Court may order the accused to attend the Court for the hearing of the application and on the taking of the evidence.

(6) The Court shall cause the order to be served on the accused and, if the accused is in custody, on the keeper of the prison.

(7) The order is a sufficient warrant to the keeper to bring the accused before the Court and the accused if on bail, shall obey the order despite the terms of the recognisance.

The Bill of Indictment

201. Form of bill of indictment

A bill of indictment shall bear the date of the day when it is signed and, with the modifications that are necessary to adapt it to the circumstances of each case, shall be in the following form:

THE HIGH COURT (*OR* THE ..... CIRCUIT COURT)

Court of Trial (e.g. Eastern Region Session held at Accra (or) Volta Region Session held at Ho.)

A.B. is charged with the following offences:

First Count

STATEMENT OF OFFENCE

Murder, contrary to section 46 of the Criminal Offences Act, 1960.

PARTICULARS OF OFFENCE

A.B., on the ..... day of ..... 20 .....

at ..... murdered C.D.

Second Count

STATEMENT OF OFFENCE

Manslaughter, contrary to section 50 of the Criminal Offences Act, 1960.

PARTICULARS OF OFFENCE

A.B., on the ..... day of ..... 20 .....

at ..... unlawfully killed C.D.

202. General provisions as to indictments

(1) Until provision is otherwise made by Rules of Court, this section shall apply to an indictment.

(2) An indictment is not open to objection in respect of its form or contents if it is framed in accordance with this Act.

(3) An indictment shall contain, and shall be sufficient if it contains, a statement of the offence with which the accused is charged, together with the particulars that are necessary for giving reasonable information as to the nature of the charge and it shall not be necessary for it to contain any further particulars although a rule of law provides otherwise.

(4) Figures and abbreviations may be used for expressing anything which is commonly expressed by figures and abbreviations.

(5) A description of the offence charged, or, where more offences than one are charged, of each offence so charged, shall be set out in a separate paragraph termed a "count".

(6) A count shall commence with a statement of the offence charged, known as the statement of offence.

(7) The statement of offence shall describe the offence briefly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by enactment shall contain a reference to the section of the enactment creating the offence.

(8) *Omitted*.45(48)

(9) After the statement of the offence, particulars of the offence shall be set out in ordinary language, in which the use of technical terms is not necessary.

(10) Where a rule of law or an enactment limits the particulars of an offence which are required to be given in an indictment, this rule shall not require more particulars to be given than those required.

(11) Where an indictment contains more than one count, the counts shall be numbered consecutively.

(12) Where an enactment constituting an offence states the offence to be

(*a*) the omission to do any one of different acts in the alternative, or

(*b*) the doing or the omission to do an act in any one of different capacities, or

(*c*) to do an act in any one of different intentions, or states a part of the offence in the alternative,

the acts, omission, capacities, or intentions, or any other matters stated in the alternative in the enactment, may be stated in the alternative in the Court charging the offence.

(13) It shall not be necessary, in a count charging an offence constituted by an enactment, to negative an exception or exemption from or qualification to the operation of the enactment creating the offence.

(14) The description or designation in an indictment of the accused, or of any other person to whom reference is made in the indictment shall be reasonably sufficient to identify the accused, without necessarily stating the accused's correct name, or abode, style, degree, or occupation, and if, owing to the name of the other person not being known, or for any other reason, it is impracticable to give a description or designation, the description or designation shall be given which is reasonably practicable in the circumstances, or the other person may be described as "a person unknown".

(15) Where it is necessary to refer to a document or an instrument in an indictment, it shall be sufficient to describe it by a name or designation by which it is usually known, or by its purport without setting out a copy.

(16) Subject to the other rules, it is sufficient to describe a place, time, thing, matter, an act, or

omission to which it is necessary to refer in ordinary language, in a manner that indicates with reasonable clearness the place, time, thing, matter, act, or omission referred to.

(17) It shall not be necessary in stating an intent to defraud, deceive, or injure to state an intent to defraud, deceive, or injure a particular person, where the enactment creating the offence does not make an intent to defraud, deceive, or injure a particular person an essential ingredient of the offence.

(18) Where a previous conviction of an offence is charged in an indictment it shall be charged at the end of the indictment by means of a statement that the accused has been previously convicted of that offence at a certain time and place without stating the particulars of that offence.

PART FIVE

Trial on Indictment

Procedure on Indictment

203. Trial on indictment

A reference in an enactment to an offence as indictable or in terms to the like effect shall be taken as indicating that the offence is to be tried in accordance with this Part.

204. Jury or assessors

Trials on indictment shall be by a jury or with the aid of assessors in accordance with this Act.

Qualifications and Attendance of Jurors

205. Qualifications of jurors

Subject to sections 207 and 208, a person between the ages of twenty-five and sixty years who is resident in the Republic and can understand the English language is liable to serve as a juror.

206. Qualifications of female jurors

Repealed.46(49)

207. Exemptions from jury service

The following persons are exempt from liability to serve as jurors;

(*a*) the President, the Vice-President, the Speaker and members of Parliament;

(*b*) the Justices of the Superior Court of Judicature, the Judges and Magistrates of the lower courts, Coroners, and Deputy Coroners;

(*c*) legal practitioners in actual practice and the other Court officers;

(*d*) registered medical practitioners and registered dentists in actual practice;

(*e*) registered pharmacists in actual practice;

(*f*) Prison officers and warders;

(*g*) Police officers;

(*h*) Officers and other members of the Armed Forces on full pay;

(*i*) public officers, other than those engaged on clerical duties, employed in the Medical, Posts and Telecommunications, Customs, Excise and Preventive Service or under the Ghana Ports and Harbours Authority;

(*j*) persons actually officiating as priests or ministers of their respective religions;

(*k*) schoolmasters actually engaged in teaching in a school;

(*l*) persons employed in a public electric telegraph office or in a electric power station;

(*m*) diplomatic and consular representatives and the salaried functionaries of foreign Governments;

(*o*) editors of daily newspapers; and

(*p*) any other persons exempted by the Chief Justice.

208. Disqualifications of jurors

A person convicted of treason or felony, or of an offence involving dishonesty unless that person has obtained a free pardon, is not qualified to serve as a juror.

209. Preparation of lists of jurors

(1) A District Magistrate shall each year, between the first and thirty first days of May and between the first and the thirteenth days of November and any other dates authorised by the Chief Justice, make lists of persons

(*a*) resident at each town or place within the district at or near which sessions of the High Court or Circuit Court are or shall be held who are qualified and fit,

(*b*) resident within the district in which the sessions town is situate and within four miles of the town, or within the area specified by the Minister by order published in the *Gazette*,

to serve as jurors, setting out the name and surname, the occupation and place of abode of each person, and shall place them in the Court House of the district for three weeks.

(2) A person may apply to the District Magistrate by notice in writing to have the name of that person added to or struck off a list made by a District Magistrate on cause duly assigned in the notice.

210. Information to be given when required

(1) The District Court may require a person resident within its district to give that person's full name and surname, occupation, and place of abode, when required for the purposes of this Act.

(2) A person who refuses or fails, when required to give the information, commits an offence and is liable on conviction to a fine not exceeding one hundred penalty units.47(50)

211. Lists to be settled

(1) At the end of the time for posting the lists the District Court shall hold a public sitting for considering and disposing of the notices then received, and shall revise and settle the lists by the addition to or cancellation of names, and by correcting the errors as to the names, occupations or places of abode

of a person included in the lists.

(2) The Court shall mark on each list the time for the commencement for use of the list.

(3) The persons named in a notice, and the other persons required by the Court are bound to attend the public sittings.

212. Copies of lists to be sent to Registrars

(1) The District Court shall, on the settlement of the lists send signed copies of the list to the registrars of the High Court and Circuit Court for the appropriate sessions town.

(2) A list as prepared and delivered constitutes the jurors' list for the sessions town for which it has been prepared.

213. Yearly revision of lists

The list as prepared and revised shall again be revised once in every year, and the list as revised shall be considered a new list, and shall be subject to the rules in respect of the preparation of the list originally prepared.

214. How jury panel formed

(1) Where it is necessary to form a panel of jurors to serve at any sessions, the sheriff shall

(*a*) cause the names of the jurors in the list prepared for the sessions town at or near which sessions are to be held to be written on separate cards or slips of paper of equal size, and placed in ballot boxes to be kept for that purpose;

(*b*) draw from the ballot boxes the number of names directed by the Court of assessors and jurors to form a panel.

(2) The cards or slips drawn from the ballot boxes shall be locked up in separate boxes until the whole lot of names in the ballot boxes are exhausted by subsequent panels when the names of the jurors except those who may have served at the last preceding sessions shall be returned to the ballot boxes and when required the same shall be redrawn in the prescribed manner.

215. Certain names to be passed over

The names of jurors who are dead or permanently resident at a greater distance than four miles from the sessions town, if any other areas have not been so specified under section 209 with respect to that town, and, if an area has been so specified, the names of jurors permanently resident outside that area shall be passed over by the sheriff in forming a panel.

216. Names of jurors may be added to list or expunged

(1) Where a person, liable and suitable to serve as a juror, is found at a sessions town, or within four miles of the town, or within an area specified under section 209 with respect to the sessions town, after the lists are settled for the year, the District Court may place the name of that person on the list as a juror or an assessor, and that person is liable to serve as a juror or an assessor till a fresh list is brought into force.

(2) When a juror or an assessor on the list is disqualified, the name of that juror or that assessor shall be cancelled.

217. Sheriff to summon jurors

(1) The sheriff or the officer representing the sheriff shall, before the sitting of a Court where a jury is necessary, on receiving from the Court a precept, issue summonses requiring the attendance at the sitting of the persons selected as jurors.

(2) The summons shall be personally served on or left at the usual or last known place of abode of the person summoned two clear days, or any other time directed by the Court, before the day appointed for the sitting of the Court.

218. Sheriff to excuse attendance of jurors

(1) Where a person who has been summoned under section 217 shows in writing to the satisfaction of the sheriff that there is good reason for excusing that person from attending as required in the summons, the sheriff may excuse that person from attending.

(2) The sheriff shall produce to the Court the applications received by the sheriff from persons asking to be excused from attendance as required in the summons and the correspondence relating to the applications.

(3) Where the sheriff has complied with the applications, the sheriff shall furnish the Court in writing the reasons for doing so.

219. Inability to locate jurors

Where a person selected as a juror cannot be located, the sheriff shall obtain additional names, drawn in the prescribed manner, as may be necessary to make up the jurors to the proper number, and shall issue summonses to those persons.

220. Sheriff to deliver panel to registrar

The sheriff shall deliver to the registrar, a panel containing the names, occupations and places of abode of the persons summoned.

221. Trials for which no jurors list prepared

Where trials on indictment are to be held at a place or by a Court for which a jurors list has not been prepared under this Act, the sheriff or registrar may prepare a temporary jurors list for the purpose of the trials, and the provisions of this Act, shall so far as applicable, apply in case of the persons whose names are entered on the temporary list.

222. Penalty on jurors not attending

A person commits an offence and is liable on conviction to a fine not exceeding one hundred penalty units48(51)

(*a*) who is summoned to attend the Court as a juror and does not, without reasonable excuse, duly attend and be present at the Court, and at the times appointed by the Court for adjournment; or

(*b*) who is present in Court to serve as a juror but refuses without reasonable excuse to serve until discharged by the Court.

223. Punishment, summary, how enforced, Court may remit fines

(1) Punishments may be inflicted summarily on an order to that effect by the Court.

(2) A fine imposed under subsection (1) is recoverable

(*a*) by distress and sale of the movable or immovable property of the person fined, and

(*b*) by warrant of distress signed by the registrar of the Court.

(3) A warrant of distress signed by the registrar of the Court shall be issued by the registrar without further order of the Court, where the amount of the fine is not paid within six days,

(*a*) of the fine being imposed, if imposed in the presence of the person fined; or

(*b*) of its having to come to the knowledge by notice or otherwise of the person fined, that the fine has been imposed, if imposed in the absence of that person.

(4) In default of the recovery of the fine by distress and sale, the person fined may be imprisoned for a period of twenty-one days, if the fine is not paid sooner.

(5) The Court may remit a fine imposed under this section.

224. Notice to persons fined in absentia

Where a person is fined in absentia the registrar shall forthwith send that person a written notice of the fact, requiring that person to pay the fine, or to show cause before the Court within four days for not paying it.

225. Travelling allowance for certain jurors

A person summoned on a jury who resides more than four miles from the place to which that person is summoned is entitled to be paid as travelling allowance a sum of money that the Court considers fit.

226. Exemption from serving

(1) The Court may exempt, for reasonable cause, a person from serving as a juror at any sessions, or on a trail.

(2) A certificate bearing the signature of a registered medical practitioner specifying that a person required to attend as a juror is unable from the state of that person's health to do so, may, on the Court being satisfied of the signature of the certificate, be accepted as prima facie evidence of reasonable cause.

Qualifications and Attendance of Assessors

227. Qualifications of assessors

(1) A person between the ages of twenty-five and sixty years who is resident in the Republic and understands the English language is liable to serve as an assessor in trials on indictment of criminal cases.

(2) The exemptions from liability to serve as jurors and the disqualifications apply to assessors as they apply to jurors.

228. Sheriff or deputy sheriff to summon assessors

(1) The sheriff or the deputy sheriff, before the sitting of a Court to try criminal cases on indictment shall, on receipt from the Court of a precept, issue summonses requiring the attendance of the number of persons qualified to serve as assessors that the Court may require.

(2) The summons shall be served in the manner and within the time prescribed by section 217.

(3) Section 214 shall apply in the formation of a panel of assessors.

229. Sheriff or deputy sheriff to deliver paper to Court

The sheriff or the deputy sheriff shall deliver to the Court issuing the precept a paper specifying the names, occupations and places of abode of the persons so summoned.

230. Application of sections to assessors

The provisions of sections 222, 223 and 224 relating to punishment for non-attendance of jurors and section 226 relating to exemption from service as jurors shall apply to assessors as they apply to jurors.

Arraignment: Supplementary Provisions

231. Accused to be unfettered

An accused to be tried on an indictment shall be placed at the bar of the Court unfettered, unless the Court otherwise orders.

232. Separate trial and postponement of trial

(1) Where before a trial on an indictment or at any stage of the trial, it appears to the Court that the indictment is defective or that an order should be made for a separate trial, the Court shall make an order for the amendment of the indictment that the Court thinks necessary to meet the circumstances of the case, and on the terms that the Court considers just unless, having regard to the merits of the case, the amendment cannot be made without injustice.

(2) Where an indictment is amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment shall be treated for the purpose of the proceedings in connection with the endorsement as having been filed in the amended form.

(3) Where, before a trial on indictment or at any stage of the trial, the Court is of opinion that the accused may be prejudiced or embarrassed in the accused's defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the accused should be tried separately for one or more offences charged in an indictment, the Court may order a separate trial of any of the counts of the indictment.

(4) Where, before a trial on an indictment or at any stage of the trial the Court is of the opinion that the postponement of the trial of the accused is expedient as a consequence of the exercise of the power of the Court under this Act, the Court shall make an order to postpone the trial as appears necessary.

(5) Where an order of the Court is made under this section for a separate trial or for postponement of a trial,

(*a*) if the order is made during a trial with a jury or during a trial with assessors, the Court may discharge the jury or the assessors from giving a verdict or opinions, on the count or counts the trial of which is postponed, or on the indictment, and

(*b*) the procedure on the separate trial of a count shall be the same as if the count had been found in a separate indictment, and the procedure on the postponed trial shall be the same where the jury or assessors, have been discharged as if the trial had not commenced; and

(*c*) the Court may make an order admitting the accused to bail, and as to the enlargement of recognisances and otherwise as the Court considers fit.

(6) A power of the Court under this section is in addition to and not in derogation of any other power of the Court for the same or similar purposes.

233. Indictment not to be held insufficient for certain omissions

An indictment for an offence shall not be held insufficient for want of the averment of a matter unnecessary to be proved nor for

(*a*) omitting to state the time at which the offence was committed; or

(*b*) stating the time imperfectly; or

(*c*) stating the offence to have been committed on a date subsequent to that of the indictment, or on an impossible day, or on a day that never happened; or

(*d*) a want of the statement of the value or price of a matter or thing, or the amount of damage, injury or spoil, where the time, value, or price, or the amount of damage, injury or spoil is not the essence of the offence.

234. Quashing indictment

(1) Where an indictment does not state, and cannot by an authorised amendment be made to state, an offence of which the accused can be convicted, it shall be quashed on a motion made before the accused pleads or on a motion made in arrest of judgment.

(2) A written statement of the motion shall be delivered to the registrar or other officer of the Court by or on behalf of the accused and shall be entered on the record.

235. Procedure in case of previous convictions

(1) Where an indictment contains a count which charges the accused with an offence and a further count that the accused is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for the subsequent offence, the procedure shall be as follows, namely,

(*a*) the part of the indictment stating the previous conviction shall not be read out in Court, nor shall the accused be asked of the previous convictions alleged in the indictment, until the accused has pleaded guilty to or been convicted of the subsequent offence;

(*b*) where the accused pleads guilty to or is convicted of the subsequent offence, the accused shall then be asked whether there has been a previous conviction as alleged in the indictment;

(*c*) where the accused admits a previous conviction the Court may proceed to pass sentence on the accused accordingly, but if the accused denies the previous conviction, or refuses to or does not answer the question, the jury, or the Court and the assessors, shall then hear evidence concerning the previous conviction; and it shall not be necessary to swear the jurors again.

236. Plea of "not guilty"

An accused, on being arraigned on an indictment, by pleading "not guilty" generally to the indictment places the onus on the prosecution to establish the guilt of the accused.

237. Plea of *autrefois acquit* and *autrefois convict*

(1) An accused may, on an indictment, plead

(*a*) that there has been a previous conviction or acquittal of the accused, of the same offence; or

(*b*) that the President's Pardon has been obtained for the offence.

(2) Where either of those pleas is pleaded and denied to be true in fact, the Court shall try whether the plea is true in fact or not.

(3) Where the Court holds that the facts alleged by the accused do not prove the plea, or if it thinks that it is false in fact, the accused shall be required to plead to the indictment.

(4) This section shall not prevent an accused who has pleaded "not guilty" from raising any other matter by way of defence.

238. Refusal to plead

(1) Where an accused who is arraigned on, or charged with, an indictment, stands mute of malice, or neither will, nor by reason of infirmity can answer directly to the indictment, the Court may cause a plea of "not guilty" to be entered on behalf of the accused.

(2) A plea of "not guilty" entered on behalf of the accused shall have the same effect as if the accused had so pleaded, or else the Court shall proceed to try the accused, or where the case is triable by jury under section 242 or 245, cause a jury to be empanelled to try whether the accused is of a sound or an unsound mind.

(3) Where the accused is found to be of sound mind the Court shall proceed with the trial.

(4) Where the accused is found to be of unsound mind the Court shall proceed in the manner provided by section 133.

239. Plea of "guilty"

(1) A plea of guilty, when recorded, constitutes a conviction.

(2) Where an accused is arraigned on an indictment for an offence and can lawfully be convicted on the indictment of any other offence not charged in the indictment, the accused may plead "not guilty" of the offence charged in the indictment but "guilty" of the other offence.

(3) On the plea of guilty the Court may, with the consent of the prosecution, acquit the accused of the offence with which the accused is charged and record the plea of guilty to the other offence.

240. Proceedings after pleas of "not guilty"

(1) Where the accused pleads "not guilty", or if a plea of "not guilty" is entered, the Court shall proceed to choose jurors or assessors, as directed to try the case.

(2) Subject to the right of objection the same jury may try, or the same assessors may aid in the trail of, as many accused successively as the Court considers fit.

241. Power to postpone or adjourn proceedings

(1) Where, from the absence of witnesses or any other reasonable cause to be recorded in the proceedings, the Court considers it necessary or advisable to postpone the commencement of or to adjourn a trial, the Court may postpone or adjourn it on the term that it considers fit, for the time that it considers reasonable, and may by warrant remand the accused to a prison or any other place of security.

(2) During a remand the Court may at any time order the accused to be brought before it.

(3) The Court may on a remand admit the accused to bail.

Mode of Trial

242. Trial by jury where charge not capital

(1) The Minister may, by legislative instrument, appropriate an offence or a class of offences to be tried with a jury.

(2) The legislative instrument may apply to trials that take place in a particular Region, area or place or generally throughout the jurisdiction of the Court.

(3) A person charged with an offence directed by a legislative instrument to be tried with a jury shall be tried accordingly.

(4) On the application of the accused or the Attorney-General the Court may, if it considers that the ends of justice would be served by doing so, direct that the accused be tried with assessors instead of a jury, and on the making of the order the accused shall be tried by the Court with assessors.

243. Trial by the Court with assessors

(1) A person charged with an offence not triable by a jury under section 245, and not directed to be tried by a jury under section 242, shall, subject to subsection (2), be tried by the Court with assessors.

(2) The Court before which the trial is to be held may for stated reasons direct that the accused shall be tried with a jury.

244. Composition of jury

In cases triable with a jury the trial shall be with a jury of seven persons.

245. Capital cases

Trials for offences punishable by death shall be with a jury in accordance with section 244.

Trial with a Jury

246. Names of jurors to be drawn from ballot boxes

(1) At the sitting of the Court to try criminal cases triable by jury the names of the jurors summoned shall be written on separate pieces of card or paper of equal size and put into a box.

(2) Where a jury is required, the registrar or other officer of the Court shall, in open Court, draw from the box by lot until the required number of jurors appear.

(3) After just cause of challenge is allowed those who remain as fair and indifferent shall constitute the jury for the trial.

(4) This section shall be followed when it is necessary to form a new jury.

247. Provision for new jury

Where a case is brought on for trial during the time that a jury in any other case is deliberating, a new jury may be drawn from the residue of the cards in the box.

248. Deficiency of jurors

(1) Where there is a deficiency of jurors, or when the number of trials before the Court renders the attendance of one set of jurors for the whole of a session oppressive, the Court may issue fresh precepts.

(2) The subject to rights of challenge, the Court shall put on the jury so many of the bystanders as shall be sufficient to make up the full number of the jury.

(3) It shall not be an objection to a tales man that the tales' name is not on a jurors list.

249. Warning accused to challenge

When the jurors, are ready to be sworn, the registrar or any other officer of the Court shall address the accused person as follows:

> "The jurors who are to try you are now about to be sworn; if you object to any of them, you must do so as they come to the book to be sworn, and before they are sworn, and you shall be heard.".

250. Peremptory challenge

There shall not be a challenge to the array, but an accused, personally or by counsel, shall be allowed to challenge three of the jurors by way of peremptory challenge without assigning a cause.

251. Challenges for cause

Challenges for cause shall be allowed on any of the following grounds:

(*a*) a presumed or actual partiality or a prejudice in the juror, as standing in the relation of husband, wife, master or servant, landlord or tenant,

(i) to the accused,

(ii) to a person supposed to have been injured or affected by the acts complained of,

(iii) to the person on whose complaint the prosecution was instituted;

(iv) to a person who is in the employment of a person who is a plaintiff or defendant against any other person in a civil suit, or having complained against or having been accused by a person in a criminal prosecution, or entertaining prejudicial views on the case to be tried;

(*b*) a personal cause, of infancy, old age, deafness, blindness, infirmity, or ill-health;

(*c*) that the juror has been convicted for perjury or any other offence, disqualifying the juror from acting as a juror;

(*d*) that the juror does not understand the English language.

252. Trial of challenges for cause

A challenge for cause, if objected to by the opposite party, shall be tried and determined by the Court without a jury, and the person challenged shall be examined on oath, and shall be required to answer on oath the lawful questions relating to the trial of the challenge.

253. Foreman of jury

(1) When the jurors have been chosen they shall be sworn.

(2) When the jurors have been sworn they shall appoint one of their number to be foreman.

(3) Where a majority of the jury do not, within the time that the Court considers reasonable, agree to the appointment of a foreman, the foreman shall be appointed by the Court.

254. Duty of foreman

The foreman shall preside at the meetings of the jury for consideration and ask information from the Court that is required by the jury or any of the jurors.

255. Giving the accused in charge

The jury having been sworn to give a true verdict according to the evidence on the issues to be tried by them, and having elected a foreman, the proper officer of the Court shall inform them of the charge set forth in the indictment, and of their duty as jurors on the trial.

256. Illness of accused

Where during a trial the accused, in the opinion of the Court, becomes incapable, through sickness or any other sufficient cause, of remaining at the bar, the Court may discharge the jury and adjourn the trial.

257. Absence of a juror, trial postponed, or fresh jury called

(1) Where in the course of a trial, at any time prior to the delivery of the verdict, a juror from a sufficient cause is prevented from attending through the trial, or from further attendance at the time, or if a juror is absent and the further attendance of the juror cannot be immediately enforced, the Court may postpone the trial till the juror can attend, if within a reasonable time.

(2) Where the attendance of the juror cannot be procured within a reasonable time the Court may direct that

(*a*) a juror be added and the jury resworn, or

(*b*) the jury be discharged, and a new jury empanelled,

and in either case the trial shall commence anew.

258. When jury to be kept together

(1) It is not necessary to keep the jury together during an adjournment previous to the close of the Justice’s summing up; but the Court may, in the interests of justice in a trial, require the jury to be kept together during an adjournment.

(2) When the jury have retired to consider their verdict, the Court may give the directions that it considers fit with respect to their accommodation, custody and refreshment.

259. Jurors to attend adjournment

Where a trial is adjourned, the jurors shall be required to attend at the adjourned sitting and at every subsequent sitting until the conclusion of the trial.

Trial with Assessors

260. Selection of assessors

(1) In trial with the aid of assessors, the Justice shall select from the persons summoned to act as assessors a number, not being ordinarily less than three, that the Justice thinks fit to assist in the trial.

(2) A person charged may object to an assessor so appointed and the Court shall refuse to allow that assessor to sit if the grounds for the objection are substantial and reasonable.

261. Effect of decision of Court and assessors

In a trial with the aid of assessors the decision of the Justice in respect of the matters arising which in the case of a trial by jury would be left to the decision of the jurors, shall have the same force and effect as the finding or verdict of a jury.

262. Where an assessor unable to attend trial may proceed

(1) Where in the course of a trial with the aid of assessors, at any time prior to the finding, an assessor from a sufficient cause is prevented from attending throughout the trial, the trial shall proceed with the aid of the remaining assessors.

(2) Where two or more assessors are prevented from attending or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

263. Adjournment

(1) The Court may adjourn the trial, where necessary.

(2) In the event of an adjournment the assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting till the conclusion of the trial.

264. Decision

(1) The opinion of each assessor shall be given orally, and shall be recorded in writing by the Court, but the decision shall be vested exclusively in the Justice.

(2) An assessor who dissents from a decision of the Court may have the dissent and the grounds of the dissent recorded in the minutes.

Case for the Prosecution

265. Opening of case for prosecution

In a trial before a Justice with the aid of assessors where the accused has pleaded to the indictment or, in a trial by jury, the where accused has been given in charge of the jury, counsel for the prosecution shall open the case against the accused and shall call witnesses and adduce evidence in support of the charge.

266. Additional witnesses for prosecution

(1) Where the Attorney-General is of opinion that there is in a case committed for trial a material or necessary witness other than those mentioned in the summary of evidence, the Attorney-General may call the witness before the trial Court on giving to the registrar of the Court and to the accused notice of the intention to call the witness before the trial Court together with a summary of the evidence to be given by the witness.

(2) The Court shall determine what notice is reasonable, with regard to the time when and the circumstances under which the prosecution became acquainted with the nature of the witness's evidence and determined to call the witness as a witness.

(3) A notice need not be given where the prosecution first became aware of the evidence which the witness could give on the day on which the witness is called.

(4) Where in pursuance of section 121 a medical practitioner's or analyst's report has been tendered as evidence at the preliminary hearing it shall not be necessary for the prosecution to give notice to the accused of its intention to call the writer of the report as a witness.

267. Cross-examination of witnesses for the prosecution

Repealed.49(52)

268. Police statement

(1) At any time before, or during the course of, the trial, the accused may require the police to deliver to the accused a copy of a statement taken by them from a person who is listed in the summary of evidence or in a supplementary summary or is actually called on as witness.

(2) Where a witness is cross-examined at the trial on behalf of the accused on a part of the witness's statement to the police, the prosecution may furnish the Court with a copy of the statement which shall become part of the record of the trial.

(3) The statement shall not become evidence of the facts alleged but the Justice and jury may take it into account in assessing the credibility of the witness on the witness's evidence as a whole, and the prosecution and the defence are entitled to refer to it in examining or cross-examining a witness and in addressing the Court.

269. Proof of statement of accused in lower Court

(1) The statement of the accused duly recorded by or before the committing Court, and whether signed by the accused or not, may be given in evidence without further proof of the statement by the prosecution, unless it is proved that the Magistrate purporting to sign it did not in fact sign it.

(2) Where the prosecution does not put in the statement, the Justice, on the application of the defence, may order the statement to be read at the conclusion of the prosecution evidence as part of the prosecution case.

270. Dying declaration

Repealed.50(53)

271. Consideration of case to answer

The Justice may consider at the conclusion of the case for the prosecution whether there is a case for submission to the jury, and if of the opinion that a case has not been made that the accused has committed an offence of which the accused could be lawfully convicted on the indictment on which the accused is being tried, the Justice shall direct the jury to enter a verdict of not guilty and shall acquit the accused.

Case for the Defence

272. Judge to inform undefended accused of accused's rights

(1) At the close of the evidence for the prosecution and after the statement of the accused before the committing Court has been given in evidence, the trial Court shall in cases where the accused is not defended by counsel inform the accused

(*a*) of the right to address the Court,

(*b*) on the right to give evidence on the accused's own behalf or to make an unsworn statement, and

(*c*) of the right to call witnesses in defence of the accused, and

shall require the accused or counsel of the accused to state whether it is intended call witnesses as to fact other than the accused.

(2) On the accused being so informed the Justice shall record the fact and shall then observe the appropriate procedure set out in section 273.

273. Procedure to be followed where accused is undefended

(1) Where the accused is not defended by counsel and states the intention not to call a witness as to the facts, the Court shall call on the accused to make a statement or say nothing or give evidence on oath as to the facts, and after cross-examination of the witness the accused shall be permitted to address the Court and to call any witnesses as to character.

(2) Where the accused is not defended by counsel but states the intention to call other witnesses, the Court shall call upon the accused to open the accused's case.

(3) At the conclusion of the evidence for the defence the accused shall be permitted to sum up the case of the accused to the Court and counsel for the prosecution is entitled to reply.

274. Where accused is defended

(1) Where the accused is defended by counsel who states that a witness as to the facts will not be called except the accused, the Court shall require the accused to make an unsworn statement or give evidence, and subsequently counsel for the prosecution may address the Court and counsel for the defence may reply and shall then call a witness as to the character of the accused.

(2) Where the accused is defended by counsel who states the intention to call witnesses other than the accused, the Court shall call on the accused's counsel to open the case; and at the conclusion of the evidence for the defence, counsel for the accused may address the Court and counsel for the prosecution may reply.

(3) Where two or more accused are jointly tried and some accused are defended by counsel and others are not, the Court shall for the purpose of procedure consider that all of the accused are defended by counsel.

275. Additional witnesses to the defence

(1) The accused shall be allowed to examine the witness, although not previously bound over to give evidence and if the accused is of the understanding that the witness will not attend the trial voluntarily, the accused is entitled to apply for the issue of process to compel the witness's attendance.

(2) An accused is not be entitled to an adjournment to secure the attendance of a witness, unless the accused shows that by reasonable diligence earlier steps taken could not obtain the presence of the witness.

276. Evidence by prosecution in rebuttal

(1) At the close of the evidence for the defence, or, where it is sought to rebut evidence of good character, after evidence of good character has been given, the Court may, on the application of counsel for the prosecution, grant counsel leave to call evidence to disprove new facts set up by the evidence.

(2) Where the evidence in rebuttal is given, counsel for the defence is entitled to comment on the evidence so given.

Close of Hearing

Trials by Jury

277. Summing up by Justice

When, in a trial before a jury, the case on both sides is closed, the justice shall, if necessary, sum up the law and evidence in the case.

278. Duty of Justice

(1) For the purposes of this Act, the Justice

(*a*) shall decide the questions of law arising in the course of trial, and especially the questions as to the relevancy of facts which it is proposed to prove and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties, and, may prevent the production of inadmissible evidence whether or not it is not objected to by the parties;

(*b*) shall decide on the meaning and construction of the documents given in evidence at the trial;

(*c*) shall decide on the matters of fact which it may be necessary to prove in order to enable evidence of particular matter to be given;

(*d*) shall decide whether a question which arises is for the Justice personally or for the jury, and on this point the Justice's decision binds the jurors.

(2) The Justice may, in the course of summing up, express to the jury a personal opinion on a question of fact or on a question of mixed law and fact relevant to the proceedings.

279. Duty of jury

It is duty of the jury

(*a*) to decide which view of the facts is true and then to return the verdict which, under that view, ought, according to the direction of the Justice, to be returned;

(*b*) to determine the meaning of the technical terms other than terms of law and words used in an unusual sense, which it may be necessary to determine, whether the words occur in documents or not;

(*c*) to decide the questions which according to law, are to be deemed questions of fact;

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unless the expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the Justice to decide their meaning.

280. Jury to consider verdict

(1) After the summing up, the jury shall consider their verdict, and for that purpose may retire.

(2) Except with the leave of the Court, a person other than a juror shall not speak to or hold a communication with a member the jury while the jury are considering their verdict.

281. Delivery of verdict

When the jury have considered their verdict, the foreman shall inform the Justice what is their verdict, or that they are not unanimous.

282. Procedure where jury differ

(1) Where the jury are not unanimous, the Justice may require them to retire for further consideration.

(2) After a period that the Justice considers reasonable, the jury may deliver their verdict, or state that they are not unanimous.

283. Verdict on each charge

(1) Unless otherwise ordered by the Court, the jury shall return a verdict on the charges on which the accused is tried, and the Justice may ask them the questions that are necessary to ascertain what their verdict is.

(2) The questions and the answers to them shall be recorded.

284. Amending a verdict

When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

285. Action on verdict

(1) When the jury are unanimous in their opinion, the Justice shall give judgment in accordance with that verdict.

(2) Where the accused is found not guilty, the Justice shall record a judgment of acquittal.

(3) Where the accused is found guilty, the Justice shall pass sentence on the accused according to law.

(4) Where the jury are not unanimous in their opinion, the Justice shall, after the lapse of a time that the Justice considers reasonable, discharge the jury, but a verdict of a majority of not less than five to two shall, in respect of an offence which is not punishable by death, be held, taken to be, and received by the Court as the verdict of the whole jury.

286. Retrial of accused after discharge of jury

Where the jury is discharged, the accused shall be detained in custody or released on bail, and shall be tried by another jury.

Cases Tried with Assessors

287. Delivery of opinions by assessors

(1) When, in a case tried with assessors, the case on both sides is closed, the Justice may sum up the evidence for the prosecution and the defence, and shall then require each of the assessors to state a personal opinion orally, and shall record their opinions.

(2) The Justice shall then give judgment, and in so doing is not bound to conform with the opinions of the assessors, but shall record a personal judgment in writing.

(3) The judgment shall contain the point or points for determination, the decision of the judgment and the reasons for the decision, and shall be dated and signed by the Justice at the time of pronouncing it.

(4) Where the accused is convicted, the Justice shall pass sentence on the accused according to law.

Passing Sentence

288. Calling on the accused

(1) Where the jury finds the accused guilty or if the Justice sitting with assessors convicts the accused, or if the accused pleads guilty, the registrar or other officer of the Court shall ask the accused whether the accused has anything to say why sentence should not be passed according to law.

(2) The omission so to ask the accused that question shall affect the validity of the proceedings.

289. Motion in arrest of judgment

(1) The accused may, at any time before sentence, whether on the plea of guilty or otherwise, move in arrest of judgment on the ground that the indictment does not, after an amendment which the Court has made and had power to make, state an offence which the Court has power to try.

(2) The Court may hear and determine the matter during the same sitting, or adjourn the hearing to a future time to be fixed for that purpose.

(3) Where the Court decides in favour of the accused, the accused shall be discharged from the indictment, but the discharge shall not operate as a bar to subsequent proceedings against the accused on the same facts.

290. Sentence

Where a motion in arrest of judgment is not made, or where the Court decides against the accused on the motion, the Court may sentence the accused at any time during the session.

291. Power to reserve decision on question raised at trial

The Court before which a person is tried for an offence may reserve the giving of its final decision on questions raised at the trial, and its decision when given shall be considered as given at the time of trial.

292. Objections cured by verdict

A judgment shall not be stayed or reserved on the ground of an objection, which if stated after the indictment was read over to the accused, or during the progress of the trial, might have been amended by the Court, nor

(*a*) because of an error committed in the summoning or swearing the jury or any of them;

(*b*) because a person who has served on the jury was not qualified to sit as a juror;

(*c*) because of an objection which might have been stated as a ground of challenge of any of the jurors;

(*d*) for an informality in swearing the witnesses or any of them.

293. Evidence for arriving at a proper sentence

The Court may before passing sentence, receive evidence it considers fit, in order to inform itself as to the sentence proper to be passed.

PART SIX

Punishments

Different Kinds of Punishment

294. Different kinds of punishment

The following punishments may be inflicted for offences:

(*a*) death;

(*b*) imprisonment;

(*c*) detention;

(*d*) fine;

(*e*) payment of compensation;

(*f*) liability to police supervision.

295. Death sentence not to be pronounced on juvenile

(1) Sentence of death shall not be pronounced on or recorded against a juvenile offender, namely, an offender who, in the opinion of the Court, is under the age of seventeen years.

(2) In lieu of the death sentence the Court shall order the detention of the juvenile during the pleasure of the President and the juvenile shall be detained in a place and manner which is legal custody.

296. General rules for punishment

(1) Where a criminal offence is declared by an enactment to be a first degree felony and the punishment for that offence is not specified, a person convicted of that offence is liable to imprisonment for life or any lesser term.

(2) Where a criminal offence which is not an offence mentioned in subsection (5), is declared by an enactment to be a second degree felony and the punishment for that offence is not specified, a person convicted of that offence is liable to a term of imprisonment not exceeding ten years.

(3) Where a criminal offence is declared by an enactment to be a felony without specifying whether it is a first or second degree felony, and the punishment for that offence is not specified it shall be deemed to be a second degree felony.

(4) Where a criminal offence which is not an offence mentioned in subsection (5), is declared by an enactment to be a misdemeanour and the punishment for that offence is not specified, a person convicted of that offence is liable to a term of imprisonment not exceeding three years.

(5) A person convicted of a criminal offence under any of the following sections of the Criminal Offences Act, 1960 (Act 29), that is to say, sections 124, 128, 131, 138, 145, 151, 152, 154, 158, 165, 239, 252, 253, and 260 is liable to a term of imprisonment not exceeding twenty-five years.

(6) A term of imprisonment shall be with hard labour unless, in the case of a sentence of less than three years, the Court otherwise directs.

297. Rules relating to fines

(1) Where a person is convicted of a felony or a misdemeanour or of an offence punishable by imprisonment other than an offence for which the sentence is fixed by law, the Court may sentence that person to a fine in addition to or in lieu of any other punishment to which that person is liable.

(2) Where the amount of the fine which a person may be sentenced to pay on conviction is not expressly limited, the amount of fine shall, subject to the limitations on the powers of the Court, be in the discretion of the Court, but shall not be excessive.

(3) Where a person convicted of an offence is sentenced to pay a fine the Court may direct that if that person fails to pay the fine within the time appointed for payment that person shall suffer imprisonment until it is paid.

(4) The imprisonment to which a person is sentenced under subsection (3) shall be in addition to any other imprisonment to which that person is sentenced, and in the case of a felony or misdemeanour shall not exceed three years and in any other case shall not exceed twelve months.51(54)

(5) Where a fine is imposed by a Court exercising summary jurisdiction or at a trial on indictment, and before the expiration of the term of imprisonment fixed in default of payment, a proportion of the fine is paid or levied and the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

298. Consequences of imprisonment for three years or more

(1) Where a person is convicted of an offence, and is sentenced to imprisonment of not less than three years, then unless the Court otherwise orders,

(*a*) a public office held by that person within the jurisdiction of the Court shall forthwith become

vacant; and

(*b*) a pension, superannuation allowance, or an emolument payable to that person out of the public revenues or out of a public fund, or chargeable on a rate or tax, and an accruing right to that pension, allowance or emolument, shall determine and be forfeited from the date of the conviction.

(2) The consequences mentioned in subsection (1) shall not ensue in the case of a person who, at the time of committing the criminal offence of which that person is convicted, was a juvenile.52(55)

(3) A person who receives a pardon is, unless the pardon otherwise directs, relieved from the consequences mentioned in this section, except as to an office of employment which, having been vacated under this section, has been filled up before the receipt of the pardon.

299. Recognisance for keeping the peace

(1) The Court before which a person is convicted of an offence other than an offence for which the sentence is fixed by law may, according to the circumstances of the case, order that person in place of or in addition to any other punishment, to enter into recognisance, with or without sureties, for keeping the peace and to be of good behaviour.

(2) In default of entering into recognisance with or without sureties, that person shall be imprisoned, in addition to the term of imprisonment to which that person is sentenced, for a term not exceeding six months and not exceeding the term for which that person is convicted or, if a term of imprisonment is not specified, for a term not exceeding two months.

300. Previous convictions

(1) Where a person, having been convicted of a criminal offence, is again convicted of a criminal offence that person is liable to increased punishment provided in the Table annexed to this section and the notes to it or to a period of detention in this Act called “preventive custody” under Part Thirteen.

(2) Subsection (1), and the contents of the Table annexed to this section shall not exempt a person from a liability to which that person is subject under an enactment, to death or to a greater or any other punishment than the punishment mentioned in the Table, and a punishment to which that person is liable may be inflicted in addition to the punishments mentioned in the Table.

(3) This section, and the contents of the Table, shall not apply to libel, or to any other act which is a criminal offence on the ground of negligence.

(4) A conviction of a person for a criminal offence committed by that person before attaining the age of eighteen years shall not be admitted in evidence against that person for the purposes of the Table after that person has attained the age of twenty years.

TABLE

Scale of Increased Punishments for Repetition of Crime

Nature of conviction	*Nature of previous convictions*	*Punishment to be substituted for the punishment prescribed*

Summary conviction for criminal offence.	A conviction for a similar criminal offence.	Twice the maximum imprisonment and twice the maximum fine which might otherwise be inflicted.
Conviction for misdemeanour	A conviction for a similar misdemeanour; or for a similar felony; or two summary convictions for similar criminal offence	Imprisonment for five years in the discretion of the Court.
Conviction for a second degree felony.	A conviction for a felony; or a conviction for a similar misdemeanour for which a sentence of more than six months' imprisonment was passed.	Imprisonment for fourteen years; and, if the Court so directs, police supervision for not more than five years.

Notes to the Table

(1) In this Table, and in the notes, expressions referring to a criminal offence include attempts to commit and abetments of the criminal offence.

(2) Where a person has, in a part of the Commonwealth beyond the jurisdiction of the Courts, been convicted of felony, or has, within the jurisdiction of the Courts, been convicted of a felony committed or commenced before the commencement of this Act, the conviction shall have the same effect as if it had taken place under this Act.

(3) A criminal offence which is punishable under a Chapter of the Criminal Offences Act is similar to every other criminal offence punishable under the same Chapter. A criminal offence punishable under Chapters 2, 3 and 4 of Part Two of the Criminal Offences Act, 1960 (Act 29) is similar to every other criminal offence punishable under the same Chapters. A criminal offence punishable under Chapters 1 and 2 of Part Three of the Criminal Offences Act is similar to every other criminal offence punishable under either of those Chapters. In any other case the question whether one criminal offence is similar to another is a question of law the Court should decide.

301. Sentences consecutive unless the Court otherwise directs

Where a person after conviction for a criminal offence is convicted of a different criminal offence, before sentence is passed on that person under the first conviction or before the expiration of that sentence, a sentence which is passed on that person under the subsequent conviction, shall be executed after the expiration of the first sentence, unless the Court directs that it shall be executed concurrently with the first sentence or a part of it.

302. Several crimes, or several acts done in execution of one criminal purpose

With respect to cases where one act constitutes several criminal offences or where several acts are done in execution of one criminal purpose, the following provisions shall have effect:

(*a*) where a person does several acts against or in respect of one person or thing, each of which is a criminal offence but the whole of which acts are done in execution of the same design, and in the opinion of the Court before which that person is tried, form one continuous transaction, that person may be punished for the whole of the acts as one criminal offence, or

for anyone or several of those acts as one criminal offence, and all the acts may be taken into consideration in awarding punishment, but that person is not liable to separate punishments as for several criminal offences; and

(*b*) where a person by one act assaults, harms or kills several persons, or in any manner causes injury to several persons or things, that person is punishable only in respect of one of the persons so assaulted, harmed or killed, or of the persons or things to which injury is so caused, but in awarding punishment the Court may take into consideration all of the intended or probable consequences of the criminal offence.

Illustrations

1. ***A*** steals the master's money, and, in order to escape detection, falsifies the accounts kept by ***A*** for the master. Here ***A*** ought not to be punished both under section 124 and also under section 140 of the Criminal Offences Act; but the Court may, in awarding punishment for the stealing, take into consideration the falsification, or vice versa.

2. ***A*** assaults ***B*** and strikes ***B*** ten blows in immediate succession. Here ***A*** is not liable to be convicted of ten assaults, and sentenced to ten terms of imprisonment. However, the Court may properly pass a more severe sentence than it would have passed for a single blow.

3. A signalman on a railway, by one act of negligence, causes the death of or injuries to several persons. That signalman cannot be sentenced to several punishments in respect of the deaths of or injuries to each or several of those persons.

4. A person by one act wilfully poisons several cattle. That persons cannot be separately punished for each, but the Court, in considering the amount of the punishment to be awarded, may take into consideration the number of the cattle wilfully injured or destroyed.

303. Saving in respect of concurrent sentences

(1) The Court may pass on a person convicted, at one or more trials of any two or more offences, a separate sentence in respect of which section 302 imposes certain restrictions in regard to punishment, and the separate sentences, if sentences of imprisonment, shall run concurrently and not consecutively, and, if sentences of fines, shall not operate in a manner that imposes the fines cumulatively.

(2) Subsection (1) is without prejudice to section 302.

PART SEVEN

Proceedings after Trial

Capital Sentences

304. Forms of sentence of death

(1) A sentence of death shall direct that the person condemned shall suffer death in accordance with this section, but need not state the place of execution.

(2) A certificate signed by the registrar that sentence of death has been passed and naming the person sentenced, is sufficient authority for the detention of that person.

(3) The execution may be by hanging, lethal injection, electrocution, gas chamber or any other

method determined by the Court.53(56)

305. Accused to be informed of right to appeal

When an accused is sentenced to death the Court shall inform the accused of the period within which the accused should file an appeal.

306. Where body of person executed to be buried

The body of a person executed shall be buried in a place that the sentence of the Court directs and the Minister orders.

307. Justice to report to Minister

As soon as conveniently may be after the sentence of death has been pronounced, where an appeal from the sentence is not filed, or, where an appeal is filed and the sentence is confirmed, then as soon as conveniently may be after confirmation, the presiding Justice shall forward to the Minister a copy of the minutes, the notes of evidence taken and the full record of trial, with a report in writing signed by the Justice, containing the recommendations or observations on the case which the Justice thinks fit to make.

308. Communication of the order of the Minister

The Minister shall communicate to the Court a copy of the order the President or the Minister may make, which order, if the sentence is to be carried out, shall state the place and time where the execution is to be had, and, if the sentence is commuted into any other punishment, shall state what punishment, or, if the person sentenced is pardoned, shall state the fact.

309. Form of order

(1) The Minister shall issue a death warrant, or an order for the sentence of death to be commuted, or a pardon, signed personally by the Minister and under the presidential seal to give effect to the decision.

(2) Where the sentence of death is to be carried out, the warrant shall state the place and time of the execution, and shall give directions as to the place of burial of the body of the person executed.

(3) Where the sentence is commuted for any other punishment, the order shall specify that punishment.

(4) Where a person sentenced is pardoned the pardon shall state whether it is free, or to what conditions it is subject.

(5) The warrant may direct that the execution shall take place at a specified time and place and that the body of the person executed shall be buried at the place appointed by an officer specified in the order.

(6) The specified officer shall endorse on the warrant over the officer's signature the place and time of the execution and the place of burial or some one or more of them according to the terms of the warrant.

310. Warrant to be executed by Director of Prisons or other officers

(1) Where the sentence is to be carried out at Accra, the warrant shall be directed to the Director of Prisons; and where it is to be carried out elsewhere the warrant shall be directed to the officer prescribed by the Minister.

(2) The Director of Prisons or officer directed to act shall proceed to act in accordance with the

warrant.

311. Order to be sufficient authority

The warrant or order or pardon of the President under the signature of the Minister and the presidential seal is sufficient authority in law to the persons to whom it is directed to execute the sentence of death or the punishment awarded and to carry out the direction given in accordance with the terms of the sentence or the punishment.

312. Enquiry into pregnancy of woman

(1) Where a woman is convicted of an offence punishable by death, the Court shall order that the woman be tested for pregnancy unless the Court has reasonable grounds to believe that the woman is post-menopausal.

(2) Where the woman tests positive for pregnancy, the Court shall pass on her a sentence of imprisonment.

(3) A pregnant woman sentenced to imprisonment for life shall be detained in a place where her health needs can be met and arrangements shall be made by the Prison Service in consultation with the social welfare department of the District Assembly to ensure that after delivery her child does not remain in prison.54(57)

Sentences Other than Capital

313. Application

The following provisions respecting sentences and their execution apply in the case of convictions and orders on summary trial, and in the case of sentences on trial on indictment.

313A. Pregnant woman convicted of a non-capital offence

(1) Where a woman is convicted of a non-capital, offence, the Court shall order that the woman be tested for pregnancy unless the Court has reasonable grounds to believe that the woman is post-menopausal.

(2) Where the woman tests positive for pregnancy, the Court shall pass on her a non-custodial sentence or may suspend the sentence for a period that it may determine.

(3) Where the sentence is suspended, the Court shall explain to the offender in ordinary language that if another offence is committed during the period of the suspension she will be liable to serve the sentence for the original offence in addition to the sentence for the new offence.55(58)

314. Persons under 15 not to be sentenced to imprisonment

A Court shall not impose a sentence of imprisonment on a person who is under the age of fifteen years, or in the case of a District Court, under the age of seventeen years.

315. Warrants to be issued in respect of sentence of imprisonment

(1) Where a person is sentenced to a term of imprisonment, the Court which sentenced that person shall issue a warrant of commitment ordering the carrying out of the sentence in a prison in the Republic.

(2) The warrant is the authority to the police and prison officers to take, convey, and keep that person and to any other person for carrying into effect the sentence described in the warrant.

(3) A sentence of imprisonment commence on and includes the day on which it is pronounced.

(4) Where the accused is confined in a prison in pursuance of the warrant, the superintendent in charge of the prison shall have the custody of the warrant, and on the release of the prisoner, the superintendent shall endorse the date of the prisoner's release on the warrant and shall return the warrant to the Court which issued it.

316. Persons sentenced to fine may be searched for money to pay fine

(1) Where a Court adjudges money to be paid by an accused, for fine, penalty, compensation, costs, or otherwise, and the accused is then and there before the Court, the Court may order a search and money found on the accused on arrest or when so searched or which may be found on the accused when taken to prison in default of payment of the sum of money so adjudged to be paid, may, unless the Court otherwise directs, be applied towards the payment of the sum of money adjudged to be paid and the surplus shall be returned to the accused.

(2) The money shall not be applied where the Court is satisfied that the money does not belong to the person on whom it was found, or that the loss of the money will be more injurious to the person's family than that person's imprisonment.

317. Levy of fine by distress

(1) Where a Court orders a person to pay a sum of money by way of fine, costs, compensation, or otherwise, the Court may, subject to section 320 and in addition to any other powers conferred by section 318 or otherwise, take action to recover that sum.

(2) The recovery of that sum shall be by distress and sale under a distress warrant on the movable and immovable property of that person.

(3) The wearing apparel and bedding of a person and that person's family, and to the value of an amount of money equivalent to fifty penalty units, the tools and implements of that person's trade, shall not be taken under a distress issued under this section.56(59)

(4) Where there is sufficient movable property available to satisfy the warrant, the immovable property shall not be sold.

(5) Where a person pays or tenders to the person charged with the execution of a warrant of distress the sum of money mentioned in that warrant, or produces the receipt for the same of the Court 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 warrant shall not be executed.

(6) A warrant shall not be issued or executed if the person proved to pay the fine, costs, compensation, or other penalty, has undergone the whole of the imprisonment ordered to be suffered in default of payment.

(7) A warrant under this section may be executed within the area of the jurisdiction of the Court issuing the warrant, and it shall authorise the distress and sale of property belonging to a person within that area when endorsed by a Magistrate holding a Court within the area of jurisdiction of the Court where the property was found.

318. Suspension of execution of sentence of imprisonment

(1) When an offender is sentenced to a fine only and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 317, it may suspend the execution of the sentence of imprisonment and may release the offender on the offender executing a bond, with or without sureties, as the Court considers fit, conditioned for the offender's appearance before the Court on a date which is not more than fifteen days from the time of executing the bond.

(2) Where the fine is not paid, the Court may direct the sentence of imprisonment to be carried into execution at once, or may from time to time extend the operation of the bond for a further period of not more than fifteen days.

(3) Where an order for the payment of money is made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the Court may require the person ordered to make the payment to enter into a bond as prescribed under subsection (1), and in default of so doing may at once pass sentence of imprisonment as if the money has not been recovered.

(4) The Court may direct that money to which this section applies may be paid by instalments at the times and in the amounts that the Court considers fit.

(5) In default of payment of any of the instalments the whole of the amount outstanding shall become immediately due and payable, and the provisions of this Act and or the Criminal Offences Act, 1960 (Act 29) applicable to a sentence or fine and to imprisonment in default of payment shall apply accordingly.

319. Commitment for warrant of distress

Where the officer having the execution of a warrant of distress reports,

(*a*) that a property could not be found, or

(*b*) that not sufficient property could be found,

on which to levy the money mentioned in the warrant with expenses, the Court may by the same or subsequent warrant commit the person ordered to pay, to prison, with or without hard labour, for a time specified in the warrant, unless the money and the expenses of the distress, commitment, and conveyance to prison, to be specified in the warrant are sooner paid.

320. Commitment in lieu of distress

Where it appears to the Court

(*a*) that distress and sale of property would be ruinous to the person ordered to pay the money, and to that person's family, or

(*b*) that that person does not have property on which distress may be levied, or

(*c*) that there is sufficient reason, to be recorded in the minutes,

the Court may, instead of or after issuing a warrant of distress commit that person to prison, for a time specified in the warrant, unless the money and the expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

321. Payment in full after commitment

A person committed for non-payment may pay the sum of money mentioned in the warrant, with the amount of expenses authorised to the person in whose custody that person is, and the person having the custody of the other person shall discharge that other person from the custody, if that person is in custody

for no other matter.

322. Part payment after commitment

(1) Where a person committed to prison for non-payment pays a sum of money in part satisfaction of the sum of money adjudged to be paid, the term of that person's imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which that person is committed as the sum so paid bears to the sum of which that person is liable.

(2) The officer in charge of a prison in which a person is confined who is desirous of taking advantage of subsection (1) shall, on application made to the officer by that prisoner, at once take that prisoner before a Court, and the Court shall certify the amount by which the term of imprisonment originally awarded is reduced by the payment in part satisfaction, and shall make the appropriate order.

323. Issue of warrant

A warrant for the execution of a sentence may be issued by the Justice or Magistrate who passed the sentence or by the successor in office.

PART EIGHT

Appeals

Appeals from District Courts

324. Where an appeal lies

Repealed.57(60)

325. Limitation

(1) An appeal shall be entered within one month of the date of the order or sentence appealed against.58(61)

(2) The High Court may for good cause admit an appeal though the period of limitation prescribed by this section has elapsed.

326. Petition of appeal

(1) An appeal shall be made in the form of a petition in writing presented by the appellant or the appellant's counsel.

(2) The petition shall, unless the High Court otherwise directs, be accompanied by a copy of the judgment or order appealed against.

(3) Where the appellant is represented by counsel, the petition shall contain particulars of the alleged error of law or of fact on which the appellant relies.

327. Appellant in prison

An appellant in prison may present a petition of appeal and the copies accompanying the petition to the officer in charge of the prison, who shall immediately forward the petition and copies to the registrar

of the High Court.

328. Summary dismissal of appeal

(1) On receipt of the petition and copy under section 326 or 327, the High Court shall peruse it and dismiss the appeal summarily unless the Court is satisfied that there are sufficient grounds for interfering.

(2) Where the appellant is not in custody an appeal shall not be dismissed unless the appellant or counsel of the appellant has had a reasonable opportunity of being heard in support of the appeal.

(3) Where the appellant is in custody an appeal shall not be dismissed unless the appellant's counsel has had the opportunity of being heard.

(4) Before dismissing an appeal under this section, the Court may call for the record of the case, but is not bound to do so.

329. Notice of time, place and hearing

Where the High Court does not dismiss the appeal summarily, it shall cause notice to be given to the parties or their counsel, of the time and place at which the appeal will be heard, and shall furnish the respondent with a copy of the proceedings and of the grounds of appeal.

330. Power of Court

(1) The High Court shall send for the record of the case, if the record is not already in Court.

(2) After perusing the record and hearing the appellant or the appellant's counsel, if the counsel appears, and the respondent or the respondent's counsel, if the counsel appears, the Court may determine the appeal in accordance with law.

331. Order of High Court to be certified to District Court

(1) Where a case is decided on appeal by the High Court, the Court shall certify its judgment or order to the Court by which the conviction, sentence, or order appealed against was recorded or passed.

(2) The judgment shall be recorded in writing and shall contain the point or points for determination, the decision and the reason for the decision, and shall be dated and signed by the Justice at the time of pronouncing it.

(3) The Court to which the High Court certifies its judgment or order shall make the orders that are conformable to the judgment or order of the High Court, and if necessary, the records shall be amended accordingly.

332. Suspension of sentence pending appeal

Repealed.59(62)

333. Further evidence

(1) In dealing with an appeal from a Circuit Court or a District Court the High Court, if it considers additional evidence is necessary, shall record its reasons, and may take the evidence itself or direct it to be taken by a Circuit Court or a District Court.

(2) Where the additional evidence is taken by a Circuit Court or a District Court that Court shall certify the evidence to the High Court, which shall then proceed to dispose of the appeal.

(3) Unless the High Court otherwise directs, the accused or counsel of the accused shall be present when the additional evidence is taken.

(4) Evidence in pursuance of this section shall be taken as if it were evidence taken at a trial before a Circuit Court or a District Court.

334. Abatement of appeals

Repealed.60(63)

335. Appeals to the Supreme Court

Repealed.61(64)

336. Limitation, procedure of appeals under section 335

Repealed.62(65)

Determination of Appeals from High Court or Circuit Court

337. Appeals from High Court or Circuit Court to the Supreme Court

Repealed.63(66)

338. Power of the Court to state case for the consideration of Supreme Court

Repealed.64(67)

339. Power of the Court stating a case to postpone judgment or execution

Repealed.65(68)

PART NINE

Procedure in Juvenile Courts

340. Juvenile Courts

(1) Juvenile Courts shall sit in a different building or room from that in which sittings of the Courts other than Juvenile Courts are held, or on different days from those on which the sittings of the other Courts are held.

(2) A person shall not be present at a sitting of a Juvenile Court, except,

(*a*) members and officers of the Court;

(*b*) parties to the case before the Court, their counsel and solicitors and witnesses, and other persons directly concerned in the case; and

(*c*) any other persons who the Court may specially authorise to be present.

(3) *Repealed*.66(69)

341. Exclusive jurisdiction and transfer

(1) A court of summary jurisdiction, other than a Juvenile Court, shall not hear a charge against, or dispose of a matter affecting, a person who appears to the court of summary jurisdiction to be a juvenile, if that court is satisfied that,

(*a*) the charge or matter is one in respect of which jurisdiction has been conferred on a Juvenile Court, and

(*b*) a Juvenile Court has been constituted for the place, district or area concerned,

and where that court is so satisfied, it shall make an order transferring the charge or matter to the Juvenile Court.

(2) A charge made jointly against a juvenile and a person who has attained the age of seventeen years shall be heard by a court of summary jurisdiction other than a Juvenile Court.

342. Remission of juvenile to Juvenile Court for sentence

(1) Where a juvenile appears before a court of summary jurisdiction, other than a Juvenile Court, on a charge made jointly against that juvenile and a person over seventeen years of age, and the juvenile is convicted, the court shall not deal with that juvenile but shall remit the case to the Juvenile Court for the sentence, and the Juvenile Court shall deal with that juvenile in the manner in which it could have dealt with that juvenile if the Juvenile Court had been the court which convicted the juvenile.

(2) A court which remits a case to a Juvenile Court under subsection (1), may give the directions necessary with respect to the custody of the offender or the offender's release on bail until the offender can be brought before the Juvenile Court and shall cause to be transmitted to the clerk to the Juvenile Court a certificate setting out the nature of the offence and stating that the offender has been found guilty and that the case has been remitted for the purpose of being dealt with under this section.

(3) For the purposes of Part Eight a decision taken by the Juvenile Court under this section shall form part of the decision of the District Court by whom the juvenile was convicted and is subject to appeal accordingly.

343. Presumption and determination of age

(1) Where a person, whether charged with an offence or not, is brought before a court otherwise than for the purpose of giving evidence, and it appears to the Court that that person is a juvenile, the Court shall make due inquiry as to the age, and for that purpose shall take evidence regarding age at the hearing of the case.

(2) An order or judgment of the Court shall not be invalidated by a subsequent proof that the age of that person has not been correctly stated to the Court, and the age presumed or declared by the Court to be the age of that person so brought before it shall, for the purposes of this Part, be considered to be the true age of that person.

(3) Where it appears to the Court that a person so brought before it has attained the age of seventeen years, that person shall not for the purposes of this Part be considered a juvenile.

344. Remand of juveniles

(1) Where a juvenile is remanded in custody by a Juvenile Court, the Court shall, where possible commit the juvenile to the care of the juvenile's parent or guardian or of a fit person, whether a relative or

not, who is willing to undertake the care of the juvenile or to a remand home established under Part Eleven.

(2) The order for remand shall be delivered with the juvenile to the person who is to have care of the juvenile and is a sufficient authority for the juvenile's detention.

(3) For the purposes of this Act, a juvenile under an order for remand is in legal custody while under care and while being conveyed to or from care, and if that juvenile escapes may be arrested without a warrant.

345. Power to order parent to pay fine instead of juvenile

(1) Where a juvenile is charged before a Court with an offence for the commission of which a fine, damages or costs may be imposed, and the 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 Court may order that the fine, damages or costs awarded be paid by the parent or guardian of the juvenile, unless the Court is satisfied that the parent or guardian cannot be found or that the parent or a guardian has not condoned the commission of the offence by neglecting to exercise due care of the juvenile.

(2) Where a juvenile is charged with an offence the Court may order the juvenile's parent or guardian to give security for the juvenile's good behaviour.

(3) Where a Court considers that a charge against a juvenile is proved, the Court may make an order on the parent or guardian under this section for the payment of damages or costs or requiring that juvenile to give security for good behaviour, without proceeding to the conviction of that juvenile.

(4) 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 an order shall not be made without giving the parent or guardian an opportunity of being heard.

(5) A sum of money imposed and ordered to be paid by a parent or guardian under this section, or of forfeiture of a security, may be recovered from the parent or guardian 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 juvenile was charged.

(6) A parent or guardian may appeal to the High Court against an order under this section.

346. Methods of dealing with offenders

(1) Where a juvenile charged with an offence is tried by a Juvenile Court, and the Court is satisfied of the juvenile's guilt, the Court shall consider whether, having regard to its powers under this or any other enactment, the case may best be dealt with

(*a*) by discharging the juvenile conditionally or unconditionally; or

(*b*) by discharging the juvenile on the juvenile entering into a recognisance; or

(*c*) by releasing the juvenile on probation as provided for by Part Ten or by exercising all or any of the powers specified in paragraphs (*d*), (*g*) and (*h*) of this subsection in addition to releasing the juvenile; or

(*d*) by committing the juvenile to the care of a relative or to any other fit person; or

(*e*) by sending the offender to an industrial school or an industrial institution established under Part Eleven; or

(*f*) by ordering the juvenile to pay a fine, damages, or costs; or

(*g*) by ordering the parent or guardian of the juvenile to pay a fine, damages or costs; or

(*h*) by ordering the parent or guardian of the juvenile to give security for the good behaviour of the juvenile; or

(*i*) by dealing with the case in any other lawful manner.

(2) A juvenile under the age of seventeen years shall not be sentenced to imprisonment by a Juvenile Court.

347. Committal to fit persons

(1) Where a juvenile is charged before a Court with an offence in respect of which the Court has jurisdiction and the Court considers that the charge is proved, the Court, in addition to the powers exercisable by virtue of this or any other enactment, may commit the juvenile to the care of a fit person, whether a relative or not, who is willing to take care of the juvenile.

(2) When an order is made under this section a probation order may also be made under Part Ten.

(3) Where the parent or guardian of a juvenile proves to a Court the inability of the parent or guardian to control the juvenile, the Court, if satisfied that it is expedient so to deal with the juvenile, and that the parent or guardian understands the result which would follow from, and consents to, the making of the order, may

(*a*) make an order committing the juvenile to the care of a person who is willing to undertake the care of the juvenile, and

(*b*) without making any other order, or in addition to making an order under paragraph (*a*), make an order, placing the juvenile for a specific period, not exceeding three years or until that juvenile attains the age of eighteen years, whichever is the sooner, under the supervision of a Probation Officer or of some other person appointed for the purpose by the Court.

(4) The Court to which an application is made under this section may, until the time that the Court comes to a decision on the application, commit the juvenile to a remand home.

(5) Where, in the case of a juvenile who has been committed to the care of a fit person, the Minister responsible for Social Welfare is of the opinion that the juvenile should be sent to an industrial school or to a borstal institution, the Minister may apply to the Court which made the order of committal, and the Court, if it considers it is desirable in the interests of the juvenile so to do, may order the juvenile to be sent to an industrial school or a borstal institution.

348. Duration of probation and supervision orders

(1) Where, in exercise of the jurisdiction conferred on a Court by section 346 or section 347, the Court commits the care of a juvenile to a fit person, a probation order by the Court as respects the juvenile may be made to extend for the duration of the period that the fit persons order remains in force despite sections 355 and 361.

(2) A Court shall not exercise its power of making or varying a supervision order under section 346 (1) (*d*) or under section 347 (3) (*b*) so as to extend the period during which a juvenile is subject to supervision beyond three years unless that juvenile is for the additional period subject to a fit person's order made under section 346 (1) or section 347 (3) (*a*).

349. Power to bring before court in certain cases

(1) For the purposes of this Act, a juvenile is in need of care or protection if the juvenile

(*a*) is an orphan or is deserted by relatives; or

(*b*) has been neglected or ill-treated by the person having the care and custody of the juvenile; or

(*c*) has a parent or guardian who does not exercise proper guardian ship; or

(*d*) is destitute; or

(*e*) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the juvenile; or

(*f*) is wandering and does not have a home or fixed place of abode or visible means of subsistence; or

(*g*) is begging or receiving alms, whether or not there is a pretence of singing, playing, performing, offering anything for sale or otherwise, or is found in any street, premises or place for the purpose of begging or receiving alms; or

(*h*) accompanies a person when that person is begging or receiving alms, whether or not there is a pretence of singing, playing, performing, offering anything for sale or otherwise; or

(*i*) frequents the company of a reputed thief or common or reputed prostitute; or

(*j*) is lodging or residing in a house or the part of a house used by a prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of or otherwise contaminate the juvenile; or

(*k*) is a person in relation to whom an offence has been committed or attempted under section 314 of the Criminal Offences Act, 1960 (Act 29); or

(*l*) is found acting in a manner from which it is reasonable to suspect that the juvenile is, or has been, soliciting or importuning for immoral purpose; or

(*m*) is otherwise exposed to moral or physical danger.

(2) A police officer or probation officer, having reasonable grounds for believing a juvenile to be in need of care or protection within the meaning of subsection (1), and being of the opinion that it is in the interest of that juvenile to be taken to a place of safety, may take that juvenile to a place and cause the juvenile to be kept there for a period not exceeding eight days or until the juvenile can be brought before a Court, whichever is the sooner.

(3) A police officer may bring a juvenile before a Juvenile Court or the nearest District Court, if the officer has reasonable grounds for believing that the juvenile is in need of care and protection within the meaning of subsection (1).

(4) Section 341 shall, as far as may be practicable, apply to cases brought before the District Court under this section.

(5) The Court, if satisfied that the juvenile comes within any of the categories described in subsection (1), may

(*a*) make a detention order sending the juvenile to an industrial school; or if the juvenile is not less than ten years, make an order committing the juvenile to the care of a fit person whether a relative or not who is willing to undertake the care of the juvenile; or

(*b*) order the juvenile's parent or guardian to enter into a recognisance to exercise proper care and guardianship; or

(*c*) without making any other order, or in addition to making an order under either paragraph (*a*) or (*b*), make an order placing the juvenile for a specified period, not exceeding three years or until the juvenile attains the age of eighteen years, whichever is the sooner under the supervision of a probation officer, or of any other person appointed for the purpose by the Court.

(6) When the Court makes an order under section 347 (3) or under paragraph (*a*) or paragraph (*c*) of subsection (5), that order may contain other conditions for securing the supervision of the juvenile that the Court considers fit, including a condition as to residence.

(7) Where the order contains a condition as to residence, the place at which and the period for which the juvenile is to reside, shall be specified in the order and where a condition requires the juvenile to reside in an institution, the period for which the juvenile is required to reside shall not exceed twelve months from the date of the order.

(8) A juvenile does not come within the scope of paragraph (*i*) of subsection (1) if the only common or reputed prostitute whose company the juvenile frequents is the mother of the juvenile and it is proved that she exercises proper guardianship and due care to protect the juvenile from contamination.

(9) Until it is decided whether a juvenile comes within any of the categories described in subsection (1), the Court may from time to time commit the juvenile to a remand home or to the care of a probation officer or any other suitable person.

(10) Where an order is made under this Part, the Court may make a further order that the parent, guardian or other person responsible for the juvenile shall pay to a person specified in the order, the cost of maintaining the juvenile; and section 369 shall apply to the further order as it applies to an order under that section.

(11) For the purposes of this section, **"a place of safety"** means

(*a*) the home of a relative, or a probation officer or of any other person who in the opinion of that officer or a police officer is a fit person to take care of a juvenile until the juvenile can be brought before the Court and who is willing so to do;

(*b*) a home approved by the Minister responsible for Social Welfare under section 350;

(*c*) a remand home; or

(*d*) where none of the homes is available, a police station.

350. Approval of children's homes

A Court shall not under section 346, 347 or 349 designate the manager of an institution as a fit person to whom the care of a juvenile is to be committed unless the institution is one which the Minister responsible for Social Welfare has approved by notice published in the *Gazette*.

351. General provisions as to court orders relating to juveniles

(1) A juvenile who is the subject of an order made under sections 346, 347 or 349 and who runs away from the detention, custody, care or supervision in or under which the juvenile has been placed by the order, may be arrested without warrant and returned to the detention, custody, care or supervision.

(2) Where a juvenile runs away from the care of a fit person, and that person is not willing to receive the juvenile back, the Court may make, in respect to the juvenile, an order which it is empowered to make and which in the circumstances of the case the Court considers fit.

(3) An order made under section 346, 347 or 349

(*a*) may at any time be varied or revoked by the Court which made the order and section 361 shall apply to that order or a matter specified in the order in the manner in which that section applies to a probation order or a matter specified in that probation order, and

(*b*) may be made so as to remain in force, until the juvenile in respect of whom the order is made attains the age of eighteen years, or if the Court making the order is of opinion that it is in the best interest of the juvenile that the order should remain in force for a lesser period, for the lesser period specified in the order.

(4) A juvenile or the parent or guardian of a juvenile may appeal to the High Court against an order made against the juvenile under section 346, 347 or 349.

(5) The Minister may, by legislative instrument, make Regulations for giving effect to sections 346, 347 and 349, which Regulations may provide for the payment of expenses in respect of juveniles who are the subject of an order under any of those sections and as to the persons who may be required to make, or contribute towards, the payments.

PART TEN

Probation and Discharge of Offenders

352. Interpretation

In this Part,

"institution" means an institution established under section 365;

"Minister" means the Minister responsible for Social Welfare.

353. Absolute and conditional discharge

(1) Where a Court by or before which a person is convicted of an offence which is not an offence the sentence for which is fixed by law is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment, and that a probation order is not appropriate, the Court may make an order discharging that person absolutely, or where the Court considers it fit, it may make an order discharging that person subject to the condition that, that person does not commit an offence during a period, not exceeding twelve months from the date of the order, specified in the order.

(2) An order discharging a person subject to a condition, is referred to in this Part as an "order for conditional discharge," and the period specified in that order as "the period of conditional discharge."

(3) Before making an order for conditional discharge, the Court shall explain to the offender in ordinary language that if the offender commits another offence during the period of conditional discharge, the offender will be liable to be sentenced for the original offence.

(4) Where, under this Part, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have

effect.

354. Power of courts to make probation orders

(1) Where a person is charged with an offence before a Court of summary jurisdiction or on indictment and the Court considers that the charge is proved but is of opinion that, having regard

(*a*) to the youth, character, antecedents, home surroundings, health or mental conditions of the offender, or

(*b*) to the nature of the offence, or

(*c*) to any other extenuating circumstances in which the offence was committed,

it is expedient to release the offender on probation, the Court may make a probation order.

(2) Before making a probation order, the Court shall explain to the offender in ordinary language the effect of the order and that, if the offender fails to comply with the order the offender commits another offence, and is liable to be sentenced for the original offence.

(3) The Court shall not make a probation order where the offender is above the age of seventeen years unless the offender expresses voluntarily the willingness to comply with the provisions of the order.

355. Probation order

(1) A probation order has effect for a period of not less than six months and not more than three years from the date of the order, as specified in the order and shall require the probationer to submit during that period to the supervision of a probation officer appointed for or assigned to the district or area in which the probationer will reside after the making of the order.

(2) A probation order shall contain the provisions that the Court considers necessary for securing the supervision of the probationer, and any other conditions as to residence and other matters that the Court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the probationer or for preventing a repetition of the offence or the commission of any other offence.

(3) Where a probation order contains a provision as to residence, the place at which and the period for which the probationer is to reside shall be specified in the order.

(4) Where a provision requires the probationer to reside in an institution, the period for which the probationer is required to reside shall not exceed twelve months from the date of the order.

(5) The Court shall give notice of the terms of the order to the Minister.

(6) The Court which makes a probation order shall furnish two copies of the order, one copy to be given to the probationer and the other to the probation officer under whose supervision the probationer is placed.

356. Costs, damages and compensation

Where a person is absolutely or conditionally discharged or is placed by a probation order under the supervision of a probation officer, the order is without prejudice to the powers of the Court, under the law, to order the offender to pay costs and the damages for injury or compensation for loss that the Court considers reasonable.

357. Commission of further offences by probationers

(1) Where it appears to a Justice or District Magistrate that a person in respect of whom a probation order or an order for conditional discharge has been made has been convicted of an offence committed during the probation period or the period of conditional discharge, the Justice or District Magistrate may issue a summons requiring that person to appear at the place and time specified in the summons or may issue a warrant for that person's arrest.

(2) A Magistrate shall not issue the summons except on information, and shall not issue the warrant except on information on oath.

(3) A summons or warrant issued under this section shall direct the person convicted to appear, or to be bought, before the Court by which the probation order or the order for conditional discharge was made.

(4) Where a person is convicted by a District or Juvenile Court of an offence committed during a probation period, or a period of conditional discharge, the Court may commit that person to custody or release that person on bail, with or without sureties, until that person can be brought or appear before the Court by which the probation order or the order for conditional discharge was made.

(5) Where it is proved to the satisfaction of the Court which made the probation order, or the order for conditional discharge, that the person in respect of whom the order was made has been convicted of an offence while the order was in force, the Court may pass a sentence which it could pass if the offender had just been convicted before the Court of the offence in respect of which the probation order or the order for conditional discharge was made.

(6) Where a person in respect of whom a probation order or an order for conditional discharge has been made by a District or Juvenile Court is convicted before a Circuit Court or the High Court of an offence committed while the order was in force, the Circuit Court or the High Court may pass a sentence which the Court which made the probation order or the order for conditional discharge, could pass if the offender had just been convicted before that Court of the offence in respect of which the probation order or the order for conditional discharge was made.

358. Failure by probationer to comply with probation order

(1) Where it appears to a Justice or District Magistrate that a probationer has failed to comply with a provision of the probation order, the Justice or Magistrate may issue a summons to the probationer requiring the probationer to appear at the place and time specified in the summons or may issue a warrant for the probationer's arrest.

(2) Magistrate shall not issue a summons under subsection (1) except on information, and shall not issue a warrant except on information on oath.

(3) A summons or warrant under this section shall direct the probationer to appear or to be brought before the Court by which the probation order was made.

(4) Where it is proved to the satisfaction of the Court by which the probation order was made that the probationer has failed to comply with a provision of the probation order, then,

(*a*) without prejudice to the continuance in force of the probation order, the Court may impose on the probationer a fine not exceeding an amount of money equivalent to twenty-five penalty units; or

(*b*) the Court may pass a sentence which it could pass if the probationer had just been convicted before that Court of the offence in respect of which the probation order was made.

(5) Where a Court has, under subparagraph (*a*) of subsection (4) imposed a fine on the probationer,

then, on a subsequent sentence being passed on the probationer under section 357 or this section, the imposition of the fine shall be taken into account in fixing the amount of the sentence.

359. Probation order disqualification or disability

(1) Where a person is convicted of an offence and is absolutely or conditionally discharged or is released under a probation order, the conviction for that offence shall be regarded for the purposes of an enactment by or under which a disqualification or disability is imposed on convicted persons, or by or under which provision is made for a different penalty in respect of a second or subsequent offence, as an offence committed after the previous conviction.

(2) Where the person in respect of whom the order is made is subsequently sentenced for the original offence, subsection (1) shall cease to apply in respect of that offence, and that person shall be deemed, for the purposes of the enactment imposing a disqualification or disability, to have been convicted on the date of the sentence.

360. Transmission of documents when case is remitted to another court

(1) Where an offender is committed to custody or released on bail by a District or Juvenile Court until the offender can be brought or appear before the Court which made the probation order or order for conditional discharge, the District or Juvenile Court shall transmit to the other Court the particulars of the case that it considers desirable.

(2) Where the offender is convicted of a subsequent offence by a District or Juvenile Court, that Court shall transmit to the other Court a signed certificate to that effect, and for the purposes of the proceedings in the Court which transmitted the certificate, if purporting to be so signed, is admissible as evidence of the conviction.

361. Amendment of probation orders

(1) Subject to this section, where on the application of a probationer or of the principal or other probation officer responsible for that probationer's supervision, the Court which made the probation order is satisfied that the provisions of the probation order should be varied, or that a provision should be inserted or cancelled, the Court may amend the probation order accordingly.

(2) An order shall not be made under subsection (1) reducing the period of duration of the probation order, or extending that period beyond a period of three years from the date of the probation order.

(3) An order under subsection (1) may require a probationer to reside in an institution for period not exceeding twelve months from the date of that order, if the total period or the aggregate of the periods for which that probationer is required to reside in an institution under the probation order does not exceed twelve months.

(4) The Court, if it is satisfied on the application of the principal or other probation officer responsible for the supervision of the probationer, that the probationer has changed, or is about to change, residence from the district or area named in the order to another district or area, shall vary the probation order by substituting for the reference to the district or area named in the order a reference to the district or area where the probationer is residing or is about to reside.

(5) The Court shall transmit to the Court for the new district or area the documents and information relating to the case, and the last mentioned Court is, for the purposes of this Part, the Court by which the probation order was made.

(6) An order under this section cancelling a provision of a probation order or substituting a new

district or area for the district or area named in the order may be made without summoning the probationer; but any other order under this section shall not be made except on the application or in the presence of the probationer.

(7) Where an order is made under this section for the variation, insertion or cancellation of a provision requiring a probationer to reside in an institution, the Court shall give notice of the terms of the order to the Minister.

362. Discharge of Probation orders

(1) The Court by which the probation order was made may, on the application of the probationer or of the principal or any other probation officer, discharge the probation order, and, where the application is made by that officer, the Court may deal with it without summoning the probationer.

(2) Where an offender in respect of whom a probation order is made is subsequently sentenced for the offence in respect of which the probation order was made, the probation order shall cease to have effect unless the Court otherwise orders.

363. Transmission of copies of order for amendment of discharge of probation orders

Where an order is made for the amendment or discharge of a probation order, the clerk of the Court by which the order is made shall furnish two copies of the order to the probation officer responsible for the supervision of the probationer, or in the case of an order for the discharge of a probation order, to the probation officer who was responsible before the making of the order, one copy to be given by the officer to the probationer.

364. Selection of probation officers

(1) The probation officer who is to be responsible for the supervision of a probationer shall be selected by the Court which makes the probation order.

(2) Where the probation officer selected dies or is unable for a reason to carry out the assigned official duties, or if the probation committee dealing with the case considers it desirable that another officer shall take the probation officer's place, the Court shall select another probation officer.

(3) A woman or girl in respect of whom a probation order is made shall be placed under the supervision of a probation officer who is a woman.

365. Institutions

(1) The Minister may establish institutions the Minister considers necessary for the reception of persons placed under the supervision of probation officers.

(2) The Minister may approve the contributions which may be made towards the establishment or maintenance of institutions.

366. Appointments

(1) The Minister may appoint

(*a*) a principal probation officer, who shall organise and supervise the probation service in accordance with Regulations made under this Part;

(*b*) a sufficient number of probation officers, qualified by character and experience to be

probation officers who shall perform the function prescribed by Regulations made under this Part.

(2) The Minister may appoint a probation committee consisting of the persons who the Minister considers fit, who shall review the work of probation officers in individual cases and perform any other functions in connection with probation prescribed by Regulations made under this Part.

367. Regulations

The Minister may, by legislative instrument, make Regulations prescribing

(*a*) the functions of the principal probation officer;

(*b*) the functions of probation officers;

(*c*) the constitution and functions of a probation committee;

(*d*) the form of records to be kept under this Part;

(*e*) the procedure for establishing institutions for the purposes of this Part and the matters relating to the administration and maintenance of the institutions;

(*f*) special arrangements, if the Minister considers it necessary, for juveniles, children and young persons;

(*g*) the remuneration of a person appointed to perform functions under this Part, and the fees and charges to be made for an act, matter or a thing under this Part to be done or observed;

(*h*) generally for carrying out the provisions of this Part.

368. Delegation of powers

Any or all of the principal probation officer's functions may in writing be delegated by the principal probation officer in relation to a probationer, to the probation officer who is responsible for the supervision of the probationer.

369. Contribution towards expenses of residence at a probation home

(1) Where a Court makes a probation order under this Part requiring an offender to reside at an institution, the Court may further order, subject to subsection (5), that the parent, guardian or any other person responsible for the offender shall pay to the Government the contributions which the Court considers reasonable after due inquiry, towards the cost of maintaining the offender in the institution, and having regard to the means of the parent, guardian or any other person responsible for the offender.

(2) An order under this section shall

(*a*) take effect from the date of the making of the probation order, or from any other date that the Court may direct;

(*b*) provide for the payment of the contributions at the time and in the manner that the Court may direct throughout the period of residence in the institution.

(3) Where an order is not made under this section in respect of the maintenance of an offender in an institution, the Minister if it appears to the Minister at any time during the period of residence in the institution, that the parent, guardian or other person responsible for the offender is able to contribute towards the cost of the offender's maintenance in the institution, may apply to the Court which made the probation order for an order for the payment of contributions in accordance with subsections (1) and (2)

and the Court, may make the order.

(4) The Minister or a person against whom an order to contribute is made under this section may

(*a*) apply at any time to the Court which made the order for a variation of the order,

(*b*) appeal against an order or against a refusal to make or to vary an order

(i) to the High Court from an original decision of a District Court or of a Juvenile Court,

(ii) to the Court of Appeal from an original decision of a Circuit Court or the High Court.

(5) An order shall not be made under this section against a person unless that person has been given an opportunity of being heard by the Court.

(6) An order shall not be made against a person in that person's absence unless the Court is satisfied that notice of the intention to make the order has been received by that person.

(7) A payment which a person is ordered to make under this section may be recovered from that person by distress and sale in accordance with the provisions of this Act relating to the recovery of fines, costs or compensation.

PART ELEVEN

Industrial Schools and Borstal Institutions

370. Minister

In this Part, **"Minister"** means the Minister responsible for Social Welfare.

Establishment and Supervision of Industrial Schools and Borstal Institutions

371. Establishment of industrial schools and Borstal institutions

For the purposes of providing places in which young offenders or juveniles in need of care or protection, whilst detained, may be given the industrial training and any other instruction, and be subjected to the disciplinary and moral influences conducive to their reformation and the prevention and repression of crime, the Minister may establish

(*a*) industrial schools where juveniles may be detained under the provisions of this Part;

(*b*) borstal intuitions where young persons and juveniles may be detained under this Part.

372. Establishment of remand homes

The Minister may establish remand homes where juveniles and young persons may temporarily be kept in custody in accordance with the orders of a Court.

373. Supervision of schools, remand homes and institutions

The industrial schools and remand homes and the borstal institutions shall be under the control and supervision of the Minister.

374. Visits and inspections

The Minister shall provide facilities for periodical visits and inspections of schools and the borstal institutions by the persons and committees authorised in that behalf by the Minister.

Detention in Schools and Institutions

375. Power to order detention in a school or institution

(1) Where a juvenile is in need of care or protection or is convicted of an offence or where a young person is convicted of an offence for which the Court has power to impose a sentence of imprisonment for one month or more without the option of a fine, the Court may order, instead of passing a sentence of imprisonment or making an order, the detention

(*a*) of the juvenile in an industrial school, or

(*b*) the juvenile in a borstal institution as the Court thinks desirable in the interest of the juvenile, or

(*c*) of the young offender in an industrial school or a borstal institution.

(2) The Court shall not make an order under subsection (1) unless it appears to the Court, after enquiry into the circumstances of the case that, by reason of the criminal habits or tendencies or of the juvenile or young offender's association with persons of bad character, it is expedient that the juvenile or young offender should be subject to detention, instruction and discipline conducive to that person's reformation and the prevention of crime.

(3) A young offender or juvenile in need of care or protection who is ordered to be detained under subsection (1) may appeal against the order, and Part Eight shall apply to the appeal.

(4) Where a Court makes a detention order under subsection (1), it may by the same order or by a further order, direct that the young offender or juvenile be committed in custody to the care of the juvenile's or young offender's parents or guardian or any other fit person or to a remand home until the juvenile or the young offender can be conveyed to an industrial school or a borstal institution.

(5) A young offender or juvenile detained in the care of a parent or guardian or in a remand home is, while so detained, in lawful custody, and the detention order or further order, is the authority for the detention.

376. Contents of detention order

(1) A detention order shall specify the age and the religious denomination of the young offender or juvenile in need of care or protection.

(2) The age shall be determined by the Court after due enquiry.

(3) The age specified under subsection (1) shall, until the contrary is proved, be presumed to be the true age of the young offender or juvenile in need of care or protection and a detention order shall not be invalidated by a subsequent proof that the age of the young offender or juvenile has not been correctly specified in the order.

(4) A detention order shall further specify in relation to the young offender or juvenile

(*a*) the industrial school or borstal institution to which the young person or juvenile in need of care or protection is to be sent; and

(*b*) the person responsible for conveying the young offender or juvenile in need of care or

protection to the school or institution.

(5) Where for a reason the young offender or juvenile cannot be admitted into the school or institution specified in the detention order any other school or institution may be specified in the order by an endorsement or further endorsement.

377. Conveyance to school or institution

(1) A detention order and an endorsement or further endorsement of a detention order shall be delivered to the person responsible for conveying the young offender or juvenile to the industrial school or borstal institution concerned, and the person so conveying the offender or juvenile shall deliver the order to the person for the time being in charge of the school or institution.

(2) The Court, when making a detention order, shall prepare a record embodying the information in its possession with respect to the young offender or juvenile which is material, in the opinion of the Court, for the person in charge of the school or institution to know, and, that record shall be transmitted as soon as possible to the person for the time being in charge of the school or institution.

378. Duration of detention order

Where a juvenile is ordered to be sent to an industrial school or borstal institution and where a young offender is ordered to be sent to a borstal institution the detention order is the authority for the detention until the expiration of three years from the date of the order.

379. Extension of period of detention in school or institution

(1) Where the Minister is satisfied that juvenile, whose term of detention in an industrial school is, under section 378, about to expire, needs further care or training and cannot otherwise be placed in suitable employment, the Minister may by warrant detain that juvenile in an industrial school for a further term not exceeding one year.

(2) For the purposes of subsection (1), a juvenile shall not be detained beyond the date on which that juvenile attains the age of nineteen years.

(3) Where the Minister responsible for Prisons is satisfied that a young offender, whose term of detention in a borstal institution is under section 378 about to expire, needs further care or training and cannot otherwise be placed in suitable employment, the Minister may by warrant detain the young offender in the institution for a further term not exceeding one year.

(4) For the purposes of subsection (3), a young offender shall not be detained beyond the date on which that offender attains the age of twenty-three years.

(5) A warrant made under this section is the authority for the further detention provided for by this section.

Powers of Minister to Transfer Young Offenders

380. Powers of Minister to transfer

(1) Despite anything in this Part, the Minister at any time may

(*a*) order a juvenile to be transferred

(i) from one industrial school to any other school;

(ii) from an industrial school to a borstal institution; or

(iii) from a borstal institution to an industrial school;

(*b*) order a young offender to be transferred from one institution to any other borstal institution.

(2) Except as is otherwise provided in this Part, a person who is transferred under subsection (1) shall be detained in the school or institution to which that person is transferred for the unexpired residue of the term for which that person was originally liable to be detained.

381. Power to transfer from prison to school or institution

(1) Where the Minister is satisfied that a young offender who is undergoing imprisonment can with advantage be detained in an industrial school or a borstal institution, the Minister may transfer the young offender,

(*a*) if a juvenile from the prison to a school or institution that is most desirable in the best interests of the juvenile; or

(*b*) if a young person, from the prison to a borstal institution.

(2) The young offender shall serve the whole or a part of the unexpired residue of the sentence imposed, in the school or institution to which the young offender is transferred, and whilst detained in, or placed out on licence from, that school or institution, this Part shall apply to the young offender as if that offender had been originally ordered to be detained in an industrial school or a borstal institution.

382. Transfer of incorrigibles to prison

(1) Despite anything in this Part, where a young offender detained in an industrial school or a borstal is reported to the Minister to be incorrigible or to be exercising a bad influence on the other inmates of the school or institution, the Minister may commute the unexpired residue of the term of detention of that young offender to a term of imprisonment, with or without hard labour, determined by the Minister, but the imprisonment shall not exceed the residue of the unexpired term for which that young offender could have been detained in accordance with section 378.

(2) Subsection (1) shall not apply to a juvenile who is under the age of fifteen years.

Licence, Release, Supervision and Discharge

383. Powers to release on licence

(1) Subject to the Regulations made under this Part, where at any time after the expiration of six months from the commencement of a term of detention under this Part, the Minister is satisfied that there is a reasonable probability that the juvenile or the young offender detained will abstain from crime and lead a useful and industrious life, the Minister may by licence permit that the juvenile or young person to be discharged from the industrial school or borstal institution, on condition that the juvenile or young offender is placed under the supervision or authority of an After-care Agent appointed for the area in which the juvenile or young offender is to reside after the discharge during the period for which the licence is in force.

(2) For the purposes of subsection (1), the Director of Social Welfare and Community Development shall assign in respect of an area one or more After-care Agents from amongst the Director’s staff.

(3) The Minister may delegate in writing the Minister’s duties under subsection (1) to a public officer.

(4) A licence under this section shall continue in force until the expiration of the term for which the juvenile or young offender might have been detained under this Part, unless the licence is sooner revoked or forfeited.

(5) Subject to the directions by the Minister, a licence under this section may be revoked at any time by the person by whom it is issued.

(6) Where a licence is revoked, the person to whom the licence related shall return to the school or institution, from which that person was discharged on licence, and failing to so return, may be arrested without warrant and taken to the school or institution concerned.

(7) Where a licensee escapes from the supervision of the person in whose charge the licensee is placed, or commits a breach of a condition contained in the licence, the licensee shall be considered to have forfeited the licence.

(8) A Magistrate, on an information on oath that by reason of the conduct of the licensee a licence is considered forfeited under subsection (7), may issue a warrant for the arrest of the licensee.

(9) The licensee shall on arrest be brought before a Magistrate, who, if satisfied that the licence has been forfeited, may order the licensee to be sent back to the school or institution, from which the licensee was discharged, and may commit the licensee to prison or to a remand home until the licensee conveniently is removed to the school or institution concerned.

(10) The time during which a person is absent from a school or institution under a licence shall be treated as part of the time of that person's detention in the school or institution.

(11) Where a licensee fails to return to the school or institution on the licence being forfeited or revoked, the time which elapses after the failure to return shall be excluded in computing the time during which the licensee is to be detained in the school or institution.

384. Supervision after expiration of term of detention

(1) Despite anything in this Part, a person ordered to be detained in an industrial school or a borstal institution shall, on the expiration of the term of detention including an extended or increased term under sections 379 or 387, be made the subject of a written report prepared by the person in charge of the school or institution and addressed to the Minister, and shall thereafter remain for a further period of one year under the supervision of the person in charge.

(2) The Minister may grant to a person placed under supervision under subsection (1), a licence on the same terms and subject to the same conditions as a licence under section 383 for the unexpired residue of the period of supervision, and may further at any time revoke the licence, and, subject to subsection (4), may re-call the person to the school or institution.

(3) A person re-called under subsection (2) may be detained in the school or institution for a period not exceeding three months, but may at any time after the re-call again be placed out on licence.

(4) A juvenile or young person shall not be re-called to a school or institution unless the person who granted the licence is of the opinion that the re-call is necessary for the protection of the licensee, and so soon as may be after the re-call, and not later than three months after the date, the juvenile or young person shall again be placed out on licence, and a person so re-called shall be detained after the expiration of the period of six months' supervision provided for by subsection (1).

(5) Despite anything in this section, the Minister may, at any time direct that a person under supervision under this section shall cease to be under that supervision.

385. Power of Minister to discharge young offenders

Despite anything in this Part the Minister may, at any time and for the reason that the Minister thinks fit, direct a young offender or juvenile in need of care or protection to be discharged from an industrial school or borstal institution on the conditions that the Minister thinks desirable.

Offenders

386. Harbouring or concealing young offender

A person who harbours or conceals a young offender or juvenile in need of care or protection who has been ordered, under this Part, to be sent to an industrial school or a borstal institution or a remand home for detention, commits a criminal offence and is, on summary conviction, liable to a fine not exceeding twenty-five penalty units.

387. Penalty for escape or absence from school or institution

(1) A young offender or juvenile in need of care or protection who has been ordered, under this Part, to be detained in an industrial school or a borstal institution or a remand home and who

(*a*) escapes from the school, institution or remand home in which that offender or juvenile is detained or from a hospital or any other place in which that offender or juvenile is receiving medical attention,

(*b*) escapes from the custody of the person in whose charge that offender or juvenile has been placed, pending, or in the course of, being conveyed or transferred in accordance with a provision of this Part,

(*c*) being absent from the school or the institution on temporary leave of absence or on licence, escapes from the person in whose charge that offender or juvenile has been placed, or fails to return to the school or institution on the expiration of the leave or on the revocation of the offender's or juvenile's licence, or

(*d*) being absent from the school or the institution under supervision as provided for by this Part fails to return to the school or institution on being recalled,

may be arrested without warrant and may be brought before a District Magistrate.

(2) The Magistrate may order that the term of the detention in the school or institution shall be increased by a period not exceeding six months directed by the Magistrate, and the order may be made by the Magistrate despite the limitation in this Part as to the term for which a person may be detained in an industrial school or a borstal institution.

388. Powers of magistrate to require production of young offender

(1) Where, in respect to a young offender or juvenile in need of care or protection who has been ordered under this Part to be detained in an industrial school or a borstal institution or a remand home, a District Magistrate is satisfied by information upon oath that

(*a*) a person authorised to convey the young offender or juvenile to the school, institution or remand home is unable to discover the whereabouts of the young offender or juvenile to take the young offender or juvenile into custody, and that a person named in the information is able to produce the young offender or juvenile, or

(*b*) there is reasonable ground for believing that an offence specified in section 387 has been committed, and that a person named in the information is able to produce the young offender or juvenile,

the Magistrate shall issue a summons requiring the person so named in the information to attend at the Court on the date specified in the summons and there produce the young offender or juvenile.

(2) A person who is summoned under subsection (1) and who, without reasonable excuse, fails to attend the Court as required in the summons and to produce the young offender or juvenile referred to commits an offence and is liable, in addition to any other liability to which that person may be subject under this Part, on summary conviction, to a fine not exceeding twenty-five penalty units.

389. Penalty for investigating offence

A person who knowingly prevents a juvenile or a young offender from returning to an industrial school or a borstal institution when the juvenile or young offender is required to do so, commits an offence is liable on summary convict to a fine not exceeding twenty-five penalty units.

Miscellaneous

390. Appointment of officers and employees

The Minister may, and on the terms and conditions that the Minister considers fit, appoint persons necessary for the management, control and maintenance of industrial schools, borstal institutions and remand homes.

391. Expenses

The expenses connected with or relating to industrial schools, borstal institutions and remand homes established and maintained under this Part shall, otherwise than is provided for by section 392, be paid out of the Consolidated Fund.

392. Contributions by parents of juveniles

(1) Where a Court makes an order under this Part for the detention of a juvenile in an industrial school or a borstal institution, the Court may further order, subject to subsection (5), that the parent, guardian or any other person responsible for that juvenile shall pay to the Government the contributions towards the cost of maintaining that <break>juvenile in the school or institution during the period of that juveniles detention that the Court considers reasonable after due enquiry, and having regard to the means of the parent, guardian or the other person.

(2) An order under subsection (1) has effect from the date of the making of the detention order, or from any other date that the Court may direct, and shall provide for the payment of the contributions, at the time and in the manner directed by the Court, throughout the period of detention including, if the Court considers it desirable, the periods when the juvenile is on licence or under supervision in accordance with this Part.

(3) Where an order is not made under this section in respect of the maintenance of a juvenile who is detained in a school or in an institution, the Minister may, on the ground that the parent, guardian or the other person responsible for the juvenile is able to contribute towards the cost of the juvenile's maintenance in the school or institution, apply to the Court which made the order of detention for an order for the payment of contributions in accordance with subsections (1) and (2) and the Court may make the

order.

(4) The Minister or a person against whom an order to contribute is made under this section may,

(*a*) apply at any time to the Court which made the order for a variation of the order;

(*b*) appeal against the order or against a refusal to make or to vary the order

(i) to the High Court from the decision of a District Court or of a Juvenile Court;

(ii) to the Court of Appeal from the decision of a Circuit Court or the High Court.

(5) An order shall not be made under this section against a person unless that person has been given an opportunity of being heard by the Court, and an order shall not be made against a person in that person's absence unless the Court is satisfied that notice of the intention to make the order has been received by that person.

(6) A payment which a person is ordered to make under this section may be recovered from that person by distress and sale in accordance with the provisions of this Act relating to the recovery of fines, costs or compensation.

393. Regulations

The Minister may, by legislative instrument, make Regulations

(*a*) for the administration, control and management of industrial schools, borstal institutions and remand homes and with regard to the employment, duties, service and discipline of the officers and other persons employed within the school, institutions and remand homes or in connection with the schools, institutions and remand homes;

(*b*) for the discipline, treatment, education, training and employment of persons detained in industrial schools and borstal institutions, and for the discipline and treatment of persons detained in remand homes;

(*c*) prescribing the procedure for release on licence under this Part and the conditions which may attach to the licences, and for the supervision of licensees under this Part;

(*d*) for the prevention of contagious and infectious diseases in industrial schools, borstal institutions and remand homes, and for the medical inspection and treatment of persons detained in those places;

(*e*) for regulating visits to, and communications with, persons detained in industrial schools, borstal institutions and remand homes;

(*f*) prescribing in respect of persons detained in industrial schools, borstal institutions and remand homes, the procedure for dealing with minor offences committed within those places and with breaches or contraventions of regulations made under this Part, including the punishment for the offences, breaches or contravention, and the persons by whom the punishments may be awarded;

(*g*) prescribing the form of orders, licences and other documents to be used in connection with this Part;

(*h*) generally for the purposes of this Part.

PART TWELVE

Release and Supervision of Convicts

394. Release of convict on licence

(1) Where a convict is about to become, under an enactment regulating the remission of sentences, due for release from custody on licence, the Director of Prisons or the Prison Superintendent or any other officer in charge of the prison from which the convict is to be released shall issue in the name of the Minister a licence authorising the convict on becoming due for release to be released from custody and to be at large, subject to provisions and conditions set forth in the licence and to this Part.

(2) The licence shall be in the form set out in the First Schedule or as near to it as possible and the provisions and conditions set out in the licence are declared to be of statutory force.

(3) Before releasing a convict on licence the gaoler of the prison shall explain the terms of the licence to the convict, and shall deliver the licence to the convict.

395. Notice of residence by convict on licence

(1) Where a convict is released from custody on a convict's licence, the convict

(*a*) shall, within seven days of release, notify the place of the convict's residence to the police station nearest to the residence, and

(*b*) shall, on a change of residence from one place to another, notify the change of residence to the police station nearest to the old residence and to the police station nearest to the new residence.

(2) A holder of a convict's licence shall once in each month report at the police station nearest to the holders residence at the time and in the manner that the competent police authority shall direct; and the report shall, according as the authority shall direct, be made either personally, or by letter.

(3) Where a holder of a convict's licence who is at large in the Republic after having reported as required by subsection (1),

(*a*) remains in a place for forty-eight hours without notifying the convict's place of residence at the police station nearest to the residence, or

(*b*) fails to comply with the requirements of this section as to reporting

(i) within seven days of release,

(ii) personally on the occasion of a change of residence,

(iii) personally once in each month,

unless it is proved to the satisfaction of the Court before which that holder is tried that the holder did the best to act in conformity with the law, the holder commits an offence and on summary conviction the Court may forfeit the holder's licence.

(4) Where the Court forfeits a holder's licence, the convict shall be recommitted to prison to serve a term of imprisonment equal to the residue of the convict's term or terms of imprisonment which remained unexpired at the date of the forfeiture.

396. Arrest and imprisonment of convicts on licence

(1) A police officer not below the rank of Assistant Superintendent of Police, or who being below that

rank is authorised in writing by a police officer not below that rank, may, without a warrant take into custody a convict who is the holder of a convict's licence, if it appears to the police officer that the convict is getting a livelihood by dishonest means or is habitually associating with thieves or notoriously bad characters, and may bring that convict before a District Court for trial.

(2) Where any of the circumstances specified in subsection (1) is or are proved, the convict's licence shall be forfeited, and the convict shall be recommitted to prison to serve a term of imprisonment, with or without hard labour, equal to the residue of the term of imprisonment which remained unexpired when the licence was granted.

397. Revocation of convict's licence

(1) The Minister may, and irrespective of a provision or condition set forth in the licence, revoke a convict's licence, and by notice signed personally by the Minister inform a District Magistrate that the licence has been revoked, and require the Magistrate to issue a warrant for the arrest of the convict to whom the licence was granted; and the Magistrate shall issue the warrant accordingly.

(2) The convert when arrested under the warrant shall be brought before a District Magistrate who shall issue a warrant for the recommitment of the convict to the prison from which the convict was released by virtue of the licence; and the convict shall be recommitted to prison to serve a term of imprisonment with or without hard labour equal to the residue of the term of imprisonment which remained unexpired when the licence was granted.

398. Release of convict from obligations of licence

Although there is a thing in this Part or in any other law to the contrary, the Minister may, by order signed personally by the Minister, release and absolve a holder of a convict's licence from any or all of the obligations and liabilities attaching to the holding of a licence; and the holder shall become free without further restriction, or the obligations and liabilities of the holder shall become modified in accordance with the terms of the order.

399. Notice of residence by person under parole

(1) A person ordered by the Court under an enactment to be subject to police supervision and detained as a person on parole who is at large in the Republic,

(*a*) shall, within one month of last reporting under a convict's licence, notify the place of that person's residence at the police station nearest to that person's place or residence, and

(*b*) shall, on a change of residence within the same district, notify the change at the police station nearest to that residence.

(2) Where a person changes residence from one district to another, that person shall notify the change of residence at the police station nearest to the residence which that person is leaving, and also at the police station nearest to the new residence.

(3) A person on parole shall once in each month report personally or by letter at the police station nearest to that person's residence in the manner directed by the competent police authority.

(4) Where a person on parole is at large in the Republic after having first reported as a person on parole as provided in subsection (1),

(*a*) remains in a place for forty-eight hours without notifying the place of residence at the police station nearest to the residence, or

(*b*) fails to comply with the requirements of this section as to reporting

(i) within one month of last reporting under that person's convict's licence, or

(ii) personally on the occasion of a change of residence, or

(iii) personally once in each month,

that person shall prove to the satisfaction of the Court before which that person is tried that that person did the best to act in conformity with the law, but on failure to so prove that person is liable, on summary conviction, to a term of imprisonment with or without hard labour, not exceeding one year.

(5) The prescribed period of police supervision shall recommence to run at the termination of the imprisonment.

400. Production of licence on demand

(1) A holder of a convict's licence who is brought before a Court in pursuance of this Part, or who is required to produce a holder's convict's licence by a Magistrate or competent police authority, shall produce that licence for examination.

(2) Where a convict's licence is forfeited, the holder shall deliver it up altogether; and a convict who wilfully neglects or refuses to produce the licence, is liable on summary conviction, to a fine not exceeding one penalty unit.67(70)

401. Notice to police of release of certain prisoners

The gaoler of the prison from which the convict or prisoner is to be released, shall if practicable, not less than seven days prior to the release notify in writing to the competent police authority of the locality the fact of the impending release of the convict or prisoner, a description of the convict or prisoner, and the address to which the convict or provision intends to proceed to,

(*a*) where a convict is due for release from custody on licence or is about to be otherwise released, or

(*b*) where a prisoner under sentence of imprisonment for a term of not less than three months for an offence involving fraud or dishonesty is due for release from custody or is about to be otherwise released.

PART THIRTEEN

Preventive Custody

402. Preventive custody

*Repealed.*68(71)

PART FOURTEEN

Supplementary Provisions

Irregular Proceedings

403. Proceedings in wrong place

A finding, sentence or order of a court of competent jurisdiction shall not be set aside merely on the ground that the enquiry, trial or other proceedings, in the course of which it was arrived at, passed, or made, took place in a wrong district, or other local area, unless it appears that the error has in fact occasioned a substantial miscarriage of justice.

404. Trial by jury of offence triable with assessors

Where an offence triable with the aid of assessors is tried by a jury, the trial is not invalid on that ground only.

405. Trial with assessors of offence triable with jury

Where an offence triable by a jury is tried with the aid of assessors the trial is not invalid on that ground only, unless the objection is taken before the Court records its finding.

406. Finding or sentence when reversible by reason of error of omission

(1) Subject to this Part a finding, sentence or order passed by a court of competent jurisdiction shall not be reversed or altered or altered on appeal or review on account

(*a*) of an error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgement, or any other proceedings before or during the trial or in an enquiry or any other proceedings under this Act, or

(*b*) of the omission to revise a list of jurors in accordance with Part Five, or

(*c*) of a misdirection in a charge to a jury,

unless the error, omissions, irregularity, or misdirection has in fact occasioned a substantial miscarriage or justice.

(2) In determining whether an error, omission or irregularity has occasioned a substantial miscarriage of justice, the Court shall consider the question whether the objection could and should have been raised at an earlier stage in the proceedings.

407. Distress not illegal nor distrainer a trespasser for defect or want of form

A distress made under this Act is not unlawful, nor is a person making the distress a trespasser on account of a defect or want of form in the summons, conviction, warrant of distress or any other proceedings relating to it.

408. Error or omission not to affect legality of execution

(1) The Court may at any time amend a defect in substance or in form in an order or warrant.

(2) An omission or error as to the time and place and a defect in the form in an order or warrant given under this Act is not void or unlawful.

(3) An act done or intended to be done by virtue of that order or warrant, is valid where it is mentioned in the order or warrant or may be inferred that it is founded on a conviction or judgment, and there is a valid conviction or judgment to sustain the same.

Miscellaneous

409. Shorthand notes of proceedings

Repealed.69(72)

410. Copies of proceedings

Where a person affected by a judgment or order passed in proceedings under this Act desires to have a copy of the judgment or order or a deposition or any other part of the record, that person shall on applying for the copy be furnished with it, on payment of the prescribed fee, unless the Court for a special reason considers that it should be furnished free of cost.

411. Forms

The forms set out in the Second Schedule, with a variation that the circumstances of each case may require, may be used for the respective purposes mentioned, and may be altered, revoked or added to by the Rules of Court.

412. Fees

(1) The Rules of Court Committee shall by constitutional instrument prescribe fees to be paid in respect of processes under this Act.

(2) Rules made under subsection (1) may provide for the Court to dispense with the payment of any fees under this Act where the circumstances justify dispensation.70(73)

413. Repeals

(1) The enactments referred to in the Fifth Schedule to this Act are hereby repealed.

(2) The Regulations or any other instruments made under an enactment repealed by this Act remain in force and shall be read and construed as if made under the corresponding provisions of this Act.

414. Interpretation

In this Act, unless the context otherwise requires,

"borstal institution" means an institution established under section 371;

"competent police authority" means with respect to a particular provision of Part Twelve a police officer who under the authority of the Inspector General of Police executes the duties or exercises the powers assigned to the authority under the particular provision;

"complaint" means the allegation that a named person has committed an offence, made before a Magistrate for the purpose of moving the Magistrate to issue a process under this Act;

"convict" includes a male person who is serving under one or more sentences a term of imprisonment amounting to two years or upwards, and a holder of a convict's licence;

"convict licence" means a licence granted to a convict under section 394;

"citizen" means a citizen of Ghana;

"District Assembly" includes a Municipal and a Metropolitan Assembly;71(74)

"indictable offence" means an offence punishable on indictment;

"industrial school" means a school established under section 371;

"juvenile" means a person under the age of eighteen years;72(75)

"Justice" includes a Judge;

"Magistrate" means a District Magistrate;

"Minister" means the Minister responsible for Justice;

"officer in charge of police station" includes, when the officer in charge of the police station is absent from the station-house or unable from illness or any other cause to perform official duties, the police officer present at the station-house who is next in rank to the officer in charge and is above the rank of constable, or when the Minister so directs, any other police officer present;

"police officer" includes a member of the Police Service;

"remand home" means a home established under section 372;

"sessions town" means sessions of the High Court or Circuit Court;

"summarily", in relation to a trial, means in accordance with Part Three;

"young offender" means a juvenile who is convicted of an offence or a young person who is convicted of an offence for which the Court has power to impose a sentence of imprisonment for one month or more without the option of a fine;

"young person" means a person who is seventeen years of age or more and under the age of twenty years.

415. This Act to be construed with Criminal Offences Act

This Act shall be read and construed as one with the Criminal Offences Act, 1960 (Act 29).

416. Commencement

*Omitted.*73(76)

417. Amendment of Courts Act, 1960

(1) *Repealed.*74(77)

(2) Section 53 (3) of the Courts Act, 1960, is replaced by the following subsection:

> "(3) Where under an enactment increased punishment may be imposed on a person previously convicted of a crime, a District Court may imposed the increased punishment, or twice the maximum punishments prescribed by subsection (2), whichever is the lesser.".

(3) Section 53 (4) of the Courts Act, 1960, is hereby repealed.

(4) Section 65 (1) of the Courts Act, 1960, is hereby amended by substituting for "sixteen" the word "seventeen".

(5) Section 146 of the Court Act, 1960 is hereby amended by

(*a*) substituting for paragraph (*a*) the following paragraph (*b*)

"to hear and determine charges under the sections of the Criminal Offences Act, 1960 (Act 29) shown in the Table to this section;"

(*b*) omitting the paragraph following paragraph (*h*); and

(*c*) substituting for the Table at the end of section 146, the following Table:

"Table referred to in paragraph (*a*)

74	**157**	**234**
84	**72 (1) (*a*)**	**237**
124	**176**	**278**
131	**202-7**	**282-3**
144	**209**	**285-7**
146	**226 (1) (*a*) and (*b*)**	**290-1**
155	**288**	**293-6**
		298-303
		308
		312
		315-6"

SCHEDULES

First Schedule
CONVICT'S LICENCE

Convict's licence. Section 394.

The President is pleased to grant to ....., who was convicted of ....., at the ..... on the ..... and was then and there sentenced to ....., and is now confined in the .....

THIS LICENCE is valid from the date of release under the statutory provisions regulating the remission of sentences in the prisons of the Republic and during the residue of the term of imprisonment; unless before the expiration of that term is convicted within the

Republic of felony or of a criminal offence involving fraud or dishonesty, in which case this licence will forthwith automatically become forfeited, or unless the President sooner revokes the licence.

This Licence is granted subject also to the conditions set forth below; on the breach of any of which is be liable to be forfeited or revoked under the provisions of Part Twelve.

And the Minister orders that ..... shall be released from custody within thirty days from

the date of order.

Given in the Minister's name and signed by me at ....., this day of

.....

Director of Prisons

(*or Prison Superintendent, or Officer in Charge of the prison at*)

CONDITIONS

1. **The holder shall preserve the licence and shall produce it when required by a Magistrate or a competent police authority so to do.**
2. **The holder shall comply with the provisions of Part Twelve of the Criminal and other Offences (Procedure) Act 1960 (Act 30) as to reporting personally.**
3. **The holder shall not get livelihood by dishonest means, or habitually associate with notoriously bad characters.**
4. **Where a convict's licence is forfeited, or revoked under a statutory provision other than that contained in section 395 (3) of the Criminal and other Offences (Procedure) Act, 1960 (Act 30) the holder will, in addition to any other statutory penalty, serve a term of imprisonment with or without hard labour, equal to the residue of the holder's term or terms of imprisonment which remained unexpired when the holder's licence was granted, namely,**

ENDORSEMENT

(*To be completed by the Registrar of Court by which the convict is convicted*)

I do hereby certify that ....., the holder of this convict's licence, was on the ..... day of ....., ...duly convicted by the ..... at ..... of the offence of ..... and was sentenced to

Dated at ..... this ..... day of ....., ...

.....

Registrar of the Court

Second Schedule

LIST OF FORMS

[Section 411]

No.

1. **Recognisance (bail, etc.).**
2. **Summons to show cause (s. 26).**

3. **Warrant of arrest (s. 26).**
4. **Warrant for removal of prisoner (s. 43).**
5. **Complaint on oath (s. 61).**
6. **Summons to accused (s. 62).**
7. **Warrant to arrest (s. 73).**
8. **Endorsement of warrant to arrest (s. 74).**
9. **Order on keeper of prison to produce prisoner (s. 86).**
10. **Information to ground search warrant (s. 88).**
11. **Search warrant (s. 88).**
12. **Summons to show cause against forfeiture of recognisance (s. 104).**
13. **Commission for examination of witness (s. 124).**
14. **Warrant on commitment for trial or on remand or adjournment (ss. 169, 190).**
15. **Statement of accused on investigation before commitment (s. 187).**
16. **Statement of elections by accused as to trial (s. 191).**
17. **Commitment of witness for refusing to enter into recognisance (s. 189).**
18. **Conditional recognisance (s. 97 (3).**
19. **Precept to Sheriff to summon jury (s. 217).**
20. **Sheriff's summons to juror (s. 217).**
21. **Warrant of commitment to undergo sentence (s. 315).**
22. **Gaoler's receipt for a prisoner.**
23. **Warrant of distress (s. 317).**
24. **Warrant of commitment on default or of distress or of payment (s. 319).**
25. **Warrant to discharge from prison.**
26. **Petition of appeal (s. 326).**

FORM 1
(DESCRIPTION OF COURT)

[Sections 11, 30, 74, 84, 96 and 190]

Whereas [*state cause of complaint with time and place*].

The undersigned as principal party to this recognisance agrees to and is hereby bound

(*a*) **to appear before the District Magistrate at ..... if so required**

(*b*) **to keep the peace or be of good behaviour towards all persons in Ghana for the space of .... months.**

(*c*) **to appear before the District Court, ... day of ....., ... on the .....**

(*d*) to appear before the Court at ..... on the ..... day of, ... and on any other day or subsequent day when required by the Court to answer the charge and to be dealt with according to law.

(*e*) to attend the Sessions or Court at ..... on the ..... day of ..... and there to surrender personally to the keeper of the prison at, ... and plead to the indictment filed against the principal party and so from day to day, and take the trial for the same, and not depart the Court without leave, and also to attend at an investigation or a proceeding concerning the said charge, before the trial, when and where required by the Court.

(*f*) To attend the Sessions *or* the ..... Court to be held at ..... on the .....day of ....., ... and to give evidence at the time of the charge, and also to attend and give evidence at an investigation or a proceeding ..... concerning the charge, before the trial, when and where required by the Court.

And the principal party, together with the undersigned sureties, hereby acknowledge themselves bound to forfeited to the Republic the sums of money following, for the principal party the sum of ..... and from the sureties the sum of .....each, in case the principal party fails to perform the above obligation or part of the obligation.

Principal Party ..... (L.S.)

Signed, sealed and delivered by **..... (L.S.)**

Sureties ..... (L.S.)

Before me at ..... this ..... day of ....., ...

.....

(*Signed*)

FORM 2

[Section 26]

IN THE DISTRICT COURT .....

Summons to show cause

Whereas the Court is informed on oath by A.B. of ..... that you [*insert a reference to the complaint in terms of the relevant portion of section 22 or 23, as for instance "are likely to commit a breach of the peace"*].

And whereas the Court has accordingly made the order, a copy of which is annexed to this summons.*

You are hereby commanded in the name of the Republic to appear in person before this Court at

..... on the ..... day of ....., to show why you should not be ordered to execute a bond for keeping the peace [or to be of good behaviour].

Issued at ..... the ..... day of ....., ...

.....

(*Signature of Magistrate*)

***NOTE—A copy of the order made under s. 24 should be annexed to the summons.**

FORM 3

[Section 26]

IN THE DISTRICT COURT .....

TO THE SUPERINTENDENT OF POLICE, AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Warrant of arrest to show cause

Whereas the Court is informed on oath by A.B., of ....., that C.D., of ....., [*insert a reference to the nature of the complaint as in Form*].

And whereas the Court has accordingly made the order a copy of which is annexed to this warrant.

You are hereby commanded in the name of the Republic forthwith to arrested C.D. and produce C.D. before this Court at .....

Issued at ..... the ..... day of ....., ...

.....

(*Signature of Magistrate*)

A copy of the order made under s. 24 should be annexed to the warrant.

FORM 4

[Section 43]

IN THE DISTRIC COURT .....

TO THE SUPERINTENDENT OF POLICE, AND OTHER POLCIE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Warrant to take prisoner before another Court

Whereas A.B. is charged with having committed the offence of [*state offence*] within the jurisdiction of the [*describe Court to which the prisoner is being sent*], and this Court has ordered that A.B. be sent to the [*name of Court*].

You are hereby commanded in the name of the Republic to take A.B. before (*name of Court*), there to answer the charge, and to be dealt with according to law.

Issued at ..... the ..... day of ....., ...

.....

(*Signature of Magistrate*)

FORM 5

[Section 61]

IN THE DISTRICT COURT, ...

Complaint on oath

A.B. of ..... [*being sworn*], charges that C.D. [*state offence with time and place where committed*].

Taken and sworn at ..... this ..... day of .....

.....

(*Signature of Complainant*)

.....

before me **(*Signature of Magistrate*)**

FORM 6

[Section 62]

IN THE DISTRICT COURT, ...

Summons to accused

***To* A.B., of ....**

Whereas your attendance is necessary to answer a complainant of [*state shortly the offence complained of with time and place*].

You are hereby commanded in the name of the Republic to appear in person before this Court at

..... on the ..... day of ....., ..., and on every adjournment of the Court until the case be disposed of.

Issued at ..... on the ..... day of .....

.....

(*Signature of Magistrate*)

FORM 7

[Section 73]

(Description of Court)

TO THE SUPERINTENDENT OF POLICE AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Warrant to arrest accused

Whereas ..... of ..... is accused of the offence of [*state the offence with time and place.*]

You are hereby commanded in the name of the Republic forthwith to arrest ..... and produce before the Court at .....

Issued at ..... the ..... day of .....

.....

(*Signature of Judicial Officer*)

FORM 8

[Section 74]

Endorsement of warrant to arrest accused for release under bond

If [*named of accused*] enters into a bond [*with one or two sureties, if so required*] in the sum of ¢ ....., for [*named of accused*] appearance before this Court on the ..... day of ....., and on every adjournment of the Court until the case be disposed of, you shall forthwith release (*name of accused*) from your custody.

.....

(*Date*)

.....

(*Signature of Judicial Officer*)

FORM 9

[Section 86]

(Description of Court)

Order on keeper of prison to bring prisoner before Court

To **Y.Z., Keeper of the Prison at .....**

Where A.B., now in your custody, is charged before this Court for [*state offence shortly*].

You are hereby commanded to bring name of accused before the Court at ..... on ..... at ..... o'clock in the forenoon.

Given at ..... this ..... day of .....

.....

(*Signature of Judicial Officer*)

FORM 10

[Section 88]

IN THE DISTRICT COURT .....

Information to ground search warrant

A.B., of ....., being first duly sworn, ... complains that on the ..... day of ....., ..., [*state briefly the offence committed or suspected to have been committed*].

That A.B. has reasonable ground for believing that there is in the building [*or as the case may be*] of C.D. [*describe thing required*].

That A.B. deposes that [*state shortly the grounds on which the warrant is applied for*].

Taken and sworn at this ..... day of ....., ...

.....

(*Signature of person applying for warrant*)

before me

.....

(*Signature of Magistrate or Commissioner for Oaths*)

FORM 11

[Section 88]

IN THE DISTRICT COURT, ...

TO THE SUPERINTENDENT OF POLICE, AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Search Warrant

Whereas A.B., of ..... has this day made information on oath that [*state substance of statements in paragraphs 2 and 3 of Form 10*].

You are hereby commanded in the name of the Republic with proper assistance, to enter the .... of C.D. between the hours of 6.30 a.m. and 6.30 p.m. [*state other hours, if required*] and there diligently search for the goods, and if the goods or any of the goods are found on search, to bring the goods found to be dealt with according to law.

Issued at ..... this ..... day of ....., ...

.....

(*Signature of Magistrate*)

FORM 12

[Section 104]

(Description of Court)

***To* A.B., of ....**

Summons to show cause against forfeiture of recognisance

Whereas it is proved to the satisfaction of the Court that the recognisance entered into by you on the ..... day of ....., ..., for the due appearance of C.D. to stand trial [*or as the case may be*] has been forfeited.

You are hereby required to pay to the Registrar of this Court on or before the ..... day of ....., ..., the sum of ..... being the amount of the penalty due

under the recognisance unless you sooner appear before this Court and show cause why the sum of money should not be paid.

Issued at ..... this ..... day of ....., ...

.....

(*Signature of Judicial Officer*)

FORM 13

[Section 124]

IN THE HIGH COURT OF GHANA AT .....

(*OR* IN THE ..... CIRCUIT COURT)

THE REPUBLIC versus A.B.

***To* the District Magistrate,**

Commission for examination of witness

Whereas the examination of ..... as a witness in the above criminal cause is necessary for the ends of justice, and the attendance of ..... at the trial cannot be procured without an amount of delay, expense or inconvenience which under the circumstances would be unreasonable.

You are hereby appointed to take the evidence of the witness in the prescribed manner.

You should proceed to the place where ..... is or summon ..... before you, and after satisfying yourself that sufficient notice has been given to the parties to the proceedings, take down the evidence of ..... in the same manner, and may for this purpose exercise the same powers as in the case of a trial.

If a party to the proceedings forwards interrogatories in writing which are relevant to the issue, you should examine ..... on those interrogatories.

You are further required to return this commission as soon as it has been duly executed to this Court together with the deposition of the .....

Issued at ..... this ..... day of ....., ...

.....

(*Signature of Judge and seal of Court*)

FORM 14

[Sections 169 and 190]

IN THE DISTRICT COURT, ...

TO THE SUPERINDENT OF POLICE AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Warrant on commitment for trial or on remand or adjournment

These are to command you to lodge C.D., who is accused of the offence of [*state offence*], in the prison at ..... there to be imprisoned by the keeper of the prison until C.D.'s trial at the next Assizes at (or until ..... the ..... day of..... when C.D. shall appear before [*name of Court*]).

Dated at ..... this ..... day of ....., ...

.....

(*Signature of Magistrate*)

FORM 15

[Sections 182, 184 and 187]

IN THE DISTRICT COURT

.....

(Town)

THE REPUBLIC

v

.....

The following question should be put to the accused by the Magistrate immediately before the commencement of the preliminary hearing, and the answer to it noted.

Q. Have you received a copy of the bill of indictment and summary of evidence in this case?

A.

PRELIMINARY HEARING

Prosecution addresses Court in explanation of the case.

Accused addresses in reply.

Counsel for accused addresses in reply.

The Court addresses the following words to the accused:

"Before deciding whether to commit you for trial I wish to know whether you have anything to say in answer to the charge. You are not obliged to say anything but if you have an explanation it may be in your interest to give it now.

What you say will be taken down in writing and if you are committed for trial it may be given in evidence. If you do not give an explanation, your failure to do so may be the subject of comment by the prosecution and be taken into account at the trial."

See Sixth Schedule to Act 30

At this stage, the Court should refer the accused to the requirements of section 131 in relation to *alibis*, and if necessary explain to the accused in simple terms the meaning of an *alibi*. The Court should then tell the accused that if the accused's answer to the charge is an alibi the accused may give an explanation now, although the accused may not yet be able to name the witnesses by whom the accused proposes to prove it, giving notice of the witnesses later, within the time specified in the section.

The accused states as follows:

....

....

....

Delete if inapplicable

While the accused was making a statement to the Court, it appeared to the Court that the statement was inconsistent with the accused's statement made on the .... day of ..... to the Police, which the prosecution intend to put in evidence at the trial. The Court therefore drew the attention of the accused to the inconsistency and invited the accused to make any correction the accused wishes to make in the accused present statement. The accused then stated as follows:

....

....

....

Delete where necessary

I CERTIFY that this statement was taken down in my presence and hearing and that it contains, accurately the whole statement made by the accused. The statement has been shown to/read over to the accused who has signed it/attested it by the accused mark/refused to sign it or to attest it by mark.

.....

District Magistrate

.....

Date

FORM 16

[Section 191]

IN THE DISTRICT COURT, ...

A.B., ... of, stands charged before the Court with [*state offence*]; and A.B.

having been committed to take trial on indictment for the offence, is asked by the Court whether A.B., desires to be tried with a jury or by the Court with assessors, and A.B. makes answer to the question that A.B. desires [*as the case may be.*]

Taken at ....., this ..... day of .....

.....

(*Signature of Accused*)

.....

(*Signature of Magistrate*)

.....

(*Signature of Interpreter*)

FORM 17

[Section 187]

Commitment of witness for refusing to enter into recognisance

IN THE DISTRICT COURT .....

TO THE SUPERINTENDENT OF POLICE, AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Whereas C.D., ... of is charged before this Court with the offence of [*state the offence*]

And E.F., ... of, being in possession of evidence concerning the charge, and being required refuses to enter in to recognisance to give evidence concerning the charge [*or as the case may be.*]

You are hereby commanded in the name of the Republic to lodge the E.F. in the prison at, ... there to be imprisoned by the keeper of the prison until after the trial of C.D. for the offence, unless E.F. in the meantime consents to enter into the recognisance.

Dated at ....., the ..... day of .....

.....

(*Signature of Magistrate*)

FORM 18

[Section 97 (3)]

Conditional recognisance

IN THE DISTRICT COURT, ...

Whereas [*state reasons for binding over witness conditionally*].

The undersigned, ..., obliges to perform the following obligation:

To attend the Session (or ..... Court) to be held at ....., on the day of ....., 20....., at 8.30 a.m., and there to give evidence at the time of the charge, if notice is given to ..... that ..... his attendance to give evidence is required, but not otherwise. And ..... hereby acknowledges that ..... is personally bound to forfeit to the Republic the sum of ....., in case fails to perform the above obligation.

(L.S.)

.....

Signed, sealed, and delivered

Before me at ....., this ..... day of .....

.....

(*Signature of Magistrate*)

FORM 19

[Section 217]

IN THE HIGH COURT OF GHANA

(*OR* IN THE ..... CIRCUIT COURT)

To **the Sheriff.**

Precept to Sheriff to summon jury

You are hereby required to summon ..... good men to serve as jurors at the Session or the Court to be held at the Court House at ..... on the .....day of ....., at the hour ..... o'clock a.m.

Given at ....., the ..... day of .....

.....

(*Signature and seal of Judge*)

FORM 20

[Section 217]

IN THE HIGH COURT OF GHANA

(*OR* IN THE ..... CIRCUIT COURT)

To ....., of

Sheriff's summons to juror

Your are hereby required to attend on ..... the ..... day of ....., at the hour of ..... o'clock a.m. at the High Court at ..... to serve as a juror, and to continue in attendance until ..... discharged by the Court from further attendance.

Given at ..... this ..... day of .....

.....

(*Signature of Sheriff or officer executing the office of Sheriff*)

Take notice that if you do not attend as above required you will be liable to be fined not less than ten million cedis.

FORM 21

[Section 315]

(Description of Court)

***To* the Sheriff.**

Warrant of commitment to undergo sentence where no alternative punishment

Whereas ..... of ..... was convicted before this Court of the [*state offence with place and date*] and was sentenced to [*state the punishment fully and distinctly.*]

You are hereby required to lodge ..... in the prison of together with this warrant, in which prison the sentence shall be carried into execution according to law, and for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated at ..... this day of ....., ...

.....

(*Signature of Judicial Officer*)

FORM 22

Gaoler's receipt for a prisoner

I hereby certify that I have this day received from X.Y., police officer, the body of C.D., together with a warrant under the signature of .....; and that C.D. was sober at the time of being delivered into my custody.

Dated at ..... this ..... day of ....., at o'clock.

.....

(*Signature of Gaoler*)

FORM 23

[Section 317]

(Description of Court)

To **and other officers of this Court.**

Warrant of distress

Whereas ..... of .....was on the ..... day of ..... ordered by this Court forthwith or on or before the ..... to pay [*state the penalty, compensation, or costs according to the order made*], which ..... has not been paid.

This is to command you to levy the sum of ..... by distress of the movable and immovable property of .....

And if within ..... days next after the distress, the sum of ..... together with costs of distress is not paid that you do pay the money so levied to .....

This warrant is to be returned in ..... days.

Issued at ..... this ..... day of ....., ...

.....

(*Signature of Judicial Officer*)

Officer's return if no sufficient distress, to be endorsed on warrant

I, ..., Officer of the Court, do hereby certify to the Court that, by virtue of the above written warrant, I have made diligent search for the property of the within named .... and that I cannot find sufficient property of .....

on which the sum can be levied.

.....

(*Signature of Judicial Officer*)

FORM 24

[Section 319]

(Description of Court)

To **and other officers of this Court.**

Warrant of commitment on default of distress or of payment

Whereas ..... of ..... was on the ..... day of ..... convicted before this Court of the offence [*state offence*] and was ordered to pay, (*or on or before the* .....) [*state penalty*] [*compensation, or costs according to the order*] and the order has not been satisfied.

This is to command you to lodge the ..... in the prison of together with this warrant in which prison ..... shall be imprisoned with hard labour for the space of ..... unless the sums of with ..... for costs of distress is sooner paid.

Dated at ....., this day of ....., ...

.....

(*Signature of Judicial Officer*)

FORM 25

(Description of Court)

Warrant to discharge from prison

To.....the Keeper of the Prison at .....

Whereas C.D. was committed to your custody under a warrant dated ..... wherein it was recited that C.D. was [*state ground of the commitment*].

This is to command you to discharge C.D., so committed unless C.D. is in your custody for some other cause.

Dated at ....., this ..... day of ....., ...

.....

(*Signature of Judicial Officer*)

FORM 26

[Section 326]

IN THE ..... HIGH COURT

A.B. Appellant .....

versus

C.D ..... Respondent

Petition of appeal

The Petition of A.B. states:

1. **That your Petitioner was convicted (*or* that the respondent was acquitted) by the District Court at ..... on the day of ..... on a charge of .....**

[*here state briefly the charge.*]

2. **A copy of the Judgment (or Order) of the District Court is attached and marked "A."***

3. **That your Petitioner is aggrieved by the conviction or order of the District Court and humbly prays for an appeal against the conviction or order on the following question of law or fact.**

(*State grounds of appeal*)

***To* The..... HIGH COURT, ...**

Dated this ..... day of ....., ...

.....

Petitioner

***Attach copy of Judgment or Order.**

Third Schedule

FEES

[Section 412]75(78)

Fourth Schedule

FEMALE JUROR'S NOTICE

[Section 206]

I, ...

Full name

Occupation ....

residing at ....

(*Town or village and address*)

hereby declare that I am willing to serve as a juror and can understand the English language and I am of an age between twenty-five and sixty years.

Dated ....

.....

Signature of Declarant

Fifth Schedule

REPEALS

[Section 413]

Chapter or Number and year	*Short title*	*Extent of Repeal*
Cap. 10	**The Criminal Procedure Code.**	**The whole Ordinance.**
Cap. 11	**Probation of Offenders Ordinance.**	**The whole Ordinance.**
Cap. 38	**The Prevention of Crime Ordinance.**	**The whole Ordinance.**
Cap. 41	**Industrial Schools and Borstal Institutions Ordinance.**	**The whole Ordinance.**
Cap. 51	**Repatriation of Convicted Persons.**	**The whole Ordinance.**
L.N. 256 of 1953	**The Statutory Powers and Duties (Transfer to Ministers) (Amendment) (No. 3).**	**The whole Order.**
L.N. 303 of 1954	**The Statutory Powers and Duties (Transfer to Ministers) (Amendment) (No. 3).**	**Section 2 relating to the Criminal Procedure Code.**
1952-54 supp. 1.107	**The Criminal Procedure Code.**	**The whole Ordinance.**
No. 14 of 1956	**Industrial Schools and Borstal Institutions (Amendment) Ordinance, 1956.**	**The whole Ordinance.**
No. 12 of 1957	**The Criminal Procedure Code (Amendment) Ordinance, 1957.**	**The whole Ordinance.**
No. 22 of 1957	**Statute Law (Amendment) Act, 1957.**	**Section 4.**
No. 16 of 1958	**Courts (Amendment) Act, 1958.**	**Section 8.**

No. 27 of 1958	**Juvenile Offenders Act, 1958.**	**The whole Act.**
No. 54 of 1958	**Togoland (Assimilation of Law) Act, 1958.**	**Second Schedule relating to Cap. 10**
No. 33 of 1959	**Investigation of Crime Act, 1959.**	**The whole Act.**
No. 82 of 1959	**The Criminal Procedure Code (Amendment) Act, 1959.**	**The whole Act.**

Sixth Schedule

RULES AS TO TAKING STATEMENT OF ACCUSED PERSON

[Section 187 (2)]

1. The accused making a statement must not be cross-examined, and no question should be put to the accused about it except for the purpose of removing ambiguity in what the accused actually said. For instance, if the accused had mentioned an hour without saying whether it was morning or evening, or has given a day of the week and day of the month which do not agree, or has not made it clear to what individual or what place the accused intended to refer in some part of this statement, the accused may be questioned sufficiently to clear up the point.

2. The Court should refer the accused to the requirements of section 131, in relation to *alibis*, and if necessary explain to the accused in simple terms the meaning of an *alibi*. The court should then tell the accused that if the accused's answer to the charge is an *alibi* the accused may give a personal explanation now, although the accused may not yet be able to name the witnesses by whom the accused proposes to prove it, giving notice of the witnesses later, within the time specified in the section.

3. Where a statement already made by the accused and intended, according to the summary of evidence, to be put in evidence at the trial of the accused appears to the Court to be inconsistent with the statement now being made, the Court should draw the accused's attention to the inconsistency and invite the accused to make the correction desired in the accused's present statement.

4. Where, in view of an explanation given by the accused in the accused's statement, the Court thinks it desirable that the prosecution should give further consideration to the case, the Court should adjourn the proceedings for that purpose.

Endnotes

1 (Popup - Footnote)

1. This Act was enacted as the Criminal Procedure Code, 1963 (Act 30). Section 1 clearly indicates that the Act sets the procedure for other offences hence the change in the short title to make it clear that the Act applies to other statutory offences. The Act was assented to on 12th January, 1961.

2 (Popup - Footnote)

1a. Inserted by the Criminal Procedure Code (Amendment) Act, 2006 (Act 714).

3 (Popup - Footnote)

2. Repealed by section 3 of the Criminal Procedure Code (Amendment) Decree, 1973 (N.R.C.D. 235).

4 (Popup - Footnote)

3. Amended by section 2 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

5 (Popup - Footnote)

4. By section 2 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

6 (Popup - Footnote)

5. By the Third Schedule of the Courts Act, 1971 (Act 372) which repealed sections 46A, 120, 143, 180A, 324, 332, 334 to 339, subsection (2) of sections 340 and 409 of the Criminal Procedure Code, 1960 (Act 30).

7 (Popup - Footnote)

6. The section had provided that the decision of the High Court is final and conclusive.

8 (Popup - Footnote)

7. Chapter 1 of Part Four of the Criminal Offences Act, 1960 (Act 30), relates to offences against the safety of the State.

9 (Popup - Footnote)

8. Substituted by section 3 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

10 (Popup - Footnote)

9. By section 4 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

11 (Popup - Footnote)

10. By section 5 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633). The subsection was subsection (2) of section 59.

12 (Popup - Footnote)

11. The subsection provided that a public officer could institute proceedings in the name of the public officer's Minister. It is omitted in the view of article 88 of the Constitution.

13 (Popup - Footnote)

12. The subsection which was to follow onto the previous subsection (3) provided that the Minister need not sign a complaint. The provision is inconsistent with article 88 of the Constitution.

14 (Popup - Footnote)

13. Amended by section 6 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

15 (Popup - Footnote)

13a. Amended by the Criminal Procedure Code (Amendment) Act, 2006 (Act 714) and be section 41 (1) (*a*) of the Anti-Terrorism Act, 2008 (Act 762).

16 (Popup - Footnote)

14. Amended by section 7 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

17 (Popup - Footnote)

15. Amended by section 1 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

18 (Popup - Footnote)

16. By section 8 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

19 (Popup - Footnote)

17. As offending clause (7) of article 19 of the Constitution. The section reads:

"A person convicted or acquitted of an offence may be afterwards tried for any offence for which a separate charge might have been made against that person on the former trial under subsection (2) of section 109."

20 (Popup - Footnote)
18. References in this section to the President have been omitted in view of the powers of the Attorney-General under article 88 of the Constitution.
21 (Popup - Footnote)
19. By section 5 of the Criminal Procedure Code (Amendment) (No. 2) Decree, 1975 (N.R.C.D. 324).
22 (Popup - Footnote)
20. By paragraph (xv) of the Third Schedule of the Courts Act, 1971 (Act 372).
23 (Popup - Footnote)
21. Road Traffic Ordinance, 1952 (No. 55)
24 (Popup - Footnote)
22. By section 5 of Criminal Procedure Code (Amendment) (No. 2) Decree, 1975.
25 (Popup - Footnote)
23. By section 5 of the Criminal Procedure Code (Amendment) (No. 2) Decree, 1975.
26 (Popup - Footnote)
24. Sections 27 and 28 of the Criminal Offences Act, 1960 (Act 29) relate to the criminal liability of an intoxicated person and ignorance or mistake of fact or of law.
27 (Popup - Footnote)
25. By section 9 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
28 (Popup - Footnote)
26. By section 10 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
29 (Popup - Footnote)
27. Amended by section 11 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
30 (Popup - Footnote)
28. Amended by section 12 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
31 (Popup - Footnote)
29. By paragraph (xv) of the Third Schedule of the Courts Act, 1971 (Act 372).
32 (Popup - Footnote)
30. The word “costs or” appearing before the word “compensation” are omitted in view of the amendments made to sections 141 and 142.
33 (Popup - Footnote)
31. Section 147, 147A, 147B and147C were inserted by the Criminal Procedure (Amendment) (No. 2) Act, 1964 (Act 245).
34 (Popup - Footnote)
31a. Inserted by section 41 (1) (*b*) of the Anti-Terrorism Act, 2008 (Act 762).
35 (Popup - Footnote)
32. Amended by section 13 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
36 (Popup - Footnote)
33. Section 35 of the Police Service Act, 1970 (Act 350) deals with the disposal of property in the possession of Police.
37 (Popup - Footnote)
34. By section 40 (1) of the Police Service Act, 1970 (Act 350).
38 (Popup - Footnote)
35. Amended by section 14 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
39 (Popup - Footnote)
36. Amended by section 14 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
40 (Popup - Footnote)
37. Amended by section 15 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
41 (Popup - Footnote)
38. By the Second Schedule to the Constitution (Constitutional and Transitional Provisions) Decree, 1969

(N.L.C.D 406).

42 (Popup - Footnote)

39. Amended by section 16 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

43 (Popup - Footnote)

40. *Amended by* section 17 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633)

44 (Popup - Footnote)

41. *Amended by* section 18 of the Criminal Procedure Code (Amendment) Act 2002 (Act 633)

45 (Popup - Footnote)

42. By section 19 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

46 (Popup - Footnote)

43. By section 20 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

47 (Popup - Footnote)

44. By the Third Schedule to the Courts Act, 1971 (Act 372).

48 (Popup - Footnote)

45. Previously paragraph (d) of subsection (4), the provision is omitted as offending clause (5) of article 19 of the Constitution. The provision reads:

"Where an enactment applies to acts committed before its commencement, an indictment under the enactment, in respect of the act shall contain a reference to the section of the indictment under which the accused is charged, notwithstanding that the enactment was not in force at the time when the act is alleged to have been committed."

49 (Popup - Footnote)

46. By section 2 of the Criminal Procedure Code (Amendment) Decree, 1972 (N.R.C.D. 121).

50 (Popup - Footnote)

47. Amended by section 21 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

51 (Popup - Footnote)

48. Amended by section 22 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

52 (Popup - Footnote)

49. By section 5 of the Criminal Procedure Code (Amendment) (No. 2) Decree. 1975 (N.R.C.D. 324).

53 (Popup - Footnote)

50. By section 5 of the Criminal Procedure Code (Amendment) (No. 2) Decree. 1975 (N.R.C.D. 324).

54 (Popup - Footnote)

51. Amended by section 23 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633). The subsection was part of subsection (3).

55 (Popup - Footnote)

52. Amended by section 1 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

56 (Popup - Footnote)

53. Amended by section 24 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

57 (Popup - Footnote)

54. Amended by section 25 of the Criminal Procedure Code (Amendment) Act, 2002(Act 633).

58 (Popup - Footnote)

55. Amended by section 26 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

59 (Popup - Footnote)

56. Amended by section 27 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

60 (Popup - Footnote)

57. By paragraph XV of the Third Schedule of the Courts Act, 1971 (Act 372).

61 (Popup - Footnote)

58. Amended by section 28 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).

62 (Popup - Footnote)

59. By paragraph XV of the Third Schedule to the Courts Act, 1971 (Act 372).

63 (Popup - Footnote)
60. By the Third Schedule to the Courts Act, 1971 (Act 372).
64 (Popup - Footnote)
61. By the Third Schedule to the Courts Act, 1971 (Act 372).
65 (Popup - Footnote)
62. By the Third Schedule to the Courts Act, 1971 (Act 372).
66 (Popup - Footnote)
63. By the Third Schedule to the Courts Act, 1971 (Act 372).
67 (Popup - Footnote)
64. By the Third Schedule to the Courts Act, 1971 (Act 372).
68 (Popup - Footnote)
65. By paragraph XV of the Third Schedule to the Courts Act, 1971 (Act 372) which repealed sections 334 to 339 and section 340 (2) of this Act.
69 (Popup - Footnote)
66. By the Third Schedule to the Courts Act, 1971 (Act 372).
70 (Popup - Footnote)
67. Amended by section 29 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
71 (Popup - Footnote)
68. By section 4 of the Punishment of Habitual Criminal Act, 1963 (Act 192).
72 (Popup - Footnote)
69. By paragraph XV of the Third Schedule to the Courts Act, 1971 (Act 372).
73 (Popup - Footnote)
70. Substituted by section 30 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
74 (Popup - Footnote)
71. Inserted by section 31 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
75 (Popup - Footnote)
72. Amended by section 31 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).
76 (Popup - Footnote)
73. The section provided for the first day of February. 1961 as the date for the coming into force of this Act.
77 (Popup - Footnote)
74. *By* section 1 of the Criminal Procedure Code (Amendment) (No. 2) Act, 1965 (Act 272).
78 (Popup - Footnote)
75. Implied repeal by section 30 of the Criminal Procedure Code (Amendment) Act, 2002 (Act 633).