
CHAPTER 94**CAPITAL PUNISHMENT PROCEDURE****ARRANGEMENT OF SECTIONS**

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FIRST SCHEDULE — Form of Death Warrant.

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CHAPTER 94**CAPITAL PUNISHMENT PROCEDURE****An Act relating to capital punishment.**

[Commencement 22nd March, 1926]

1. (1) This Act may be cited as the Capital Punishment Procedure Act.

*7 of 1926
7 of 1935
23 of 1959
G.N. 172/1964
43 of 1964
S.I. 40/1969
E.L.A.O., 1974*

Short title and interpretation.
*S.I. 40/1969;
E.L.A.O., 1974.*

(2) In this Act “Minister” means the Minister for the time being designated under paragraph (2) of Article 90 of the Constitution.

2. Every sentence of death shall be to the effect only that the person condemned shall “suffer death in the manner authorised by law”. A certificate, under the hand of the Registrar, that such sentence has been passed and naming the person sentenced shall be sufficient authority for the detention of such person.

Form of sentence of death.
23 of 1959, s. 2.

3. So soon as conveniently may be after any sentence of death has been pronounced, the presiding judge shall forward to the Minister his notes of the evidence taken at the trial with a report in writing containing any recommendation or observations on the case which he may think fit to make. The Minister shall cause such report together with such other information derived from the record of the case or elsewhere as the Minister may require to be taken into consideration at a meeting of the Advisory Committee on the Prerogative of Mercy constituted under Article 91 of the Constitution.

Judge to forward notes of evidence to Minister.
S.I. 40/1969.

43 of 1964, Third Sch.

4. The Governor-General acting in accordance with the advice of the Minister after consulting the said Advisory Committee in regard to the case shall communicate to the said judge or his successor in office a copy under his hand of any order he may make thereon, which order if the sentence is to be carried out shall state the place where and the time when 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

Governor-General to communicate to judge copy of any order made.
S.I. 40/1969.

pardoned shall state the fact. On receiving such order the judge shall cause the effect thereof to be entered on the record of the court.

Death warrant.

5. (1) If the sentence is to be carried out the Governor-General shall also cause a warrant under his hand and the Public Seal to be issued setting out the place where and the time when the execution is to be had as prescribed in the order aforesaid.

First Schedule.

(2) Such warrant shall be called a death warrant and shall be in the form in the First Schedule to this Act.

Provost Marshal to carry out sentence.

6. Such warrant shall be directed to the Provost Marshal who is charged with the carrying out of all executions within New Providence.

Place of execution.

7. Judgment to be executed on any prisoner sentenced to suffer death shall be carried into effect within the walls of the prison in New Providence:

Provided that the Governor-General may in any case, if he thinks fit, direct that any such judgment may be carried into effect at some convenient place in the immediate neighbourhood of the spot where the crime was committed in respect of which such judgment was pronounced, and such judgment shall be carried into effect accordingly by such person as the Governor-General may direct.

Persons present at execution.

8. (1) At an execution in New Providence —

- (a) the Provost Marshal, gaoler, chaplain and medical officer and such other officers of the prison as the Provost Marshal requires shall be present at the execution;
- (b) no other person unless expressly authorised in writing by the Provost Marshal shall be present.

(2) If the execution is carried out in an Out Island such persons shall and may be present as the Governor-General may direct.

Medical officer to certify.

9. (1) After judgment of death has been executed on the prisoner the medical officer shall examine the body of the prisoner and shall ascertain the fact of death and shall sign a certificate thereof and deliver the same to the Provost Marshal.

(2) The Provost Marshal, gaolers and chaplain and such justices of the peace or other persons present (if any) as may be required or allowed shall also sign a declaration in triplicate to the effect that judgment of death has been executed on the prisoner. One of such declarations shall be posted on the outer gate of the prison in which the judgment has been carried out or other conspicuous place close to the place of execution.

Provost Marshal and others to declare.

(3) The certificate and declaration in this section mentioned shall be in the respective forms in the Second Schedule to this Act.

Second Schedule.

(4) Any person who knowingly and wilfully signs any false certificate or declaration hereby required shall be guilty of misdemeanour, and on conviction thereof shall be liable at the discretion of the court to imprisonment for two years with or without solitary confinement.

10. (1) Within twelve hours after the execution the coroner for New Providence, if the execution has been carried out within New Providence, or the commissioner for the district in which the execution has been carried out if the execution has been carried out in a place other than in New Providence, shall hold an inquest on the body of the prisoner and the jury of the inquest shall enquire into and ascertain the identity of the body and whether judgment of death was duly executed on the prisoner. No officer of the prison or prisoner confined therein shall in any case be a juror on the inquest.

Coroner to hold inquest.

(2) Such inquisition shall be in duplicate and one of the originals shall be forwarded to the Registrar of the Supreme Court to be filed on record in his office. The other shall be forwarded to the Attorney-General.

G.N. 172/1964.

11. The body of every person executed shall be buried in such place as the Governor-General shall order.

Place of burial.

12. Nothing in any law or usage in The Bahamas shall be held to constitute either the time or the place of execution an essential part of any sentence of death pronounced by the court upon any person, so as to render the sentence spent or vacated by reason that the person was not executed at the time or place appointed.

Immateriality of time and place of execution mentioned in judgment.

Saving as to non-compliance with directions.

13. Omission to comply with any of the provisions herein contained with reference to the execution of judgment of death shall not make such execution illegal in any case where such execution would otherwise have been legal.

Rules.

14. The Governor-General may make such rules to be observed on the execution of judgment of death as he may deem expedient, for the purpose as well as guarding against any abuse in such execution, as also of giving greater solemnity to the same, and of making known the fact that such execution is taking place or has taken place.

Sentence of death not to be passed on pregnant woman

7 of 1935, s. 2.

15. (1) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this Act to be pregnant, the sentence to be passed on her shall be a sentence of penal servitude for life instead of sentence of death.

Procedure where woman convicted of capital offence alleges she is pregnant.

(2) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before whom a woman is so convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by a jury.

Composition of jury.

(3) Subject to the provisions of this subsection, the said jury shall be the trial jury, that is to say, the jury to whom she was given in charge to be tried for the offence, and the members of the jury need not be resworn:

Provided that —

- (a) if any member of the trial jury, either before or after the conviction, dies or is discharged by the court as being through illness incapable of continuing to act or for any other cause, the inquiry as to whether or not the woman is pregnant shall proceed without him; and
- (b) where there is no trial jury, or where a jury have disagreed as to whether the woman is or is not pregnant, or have been discharged by the court without giving a verdict on that question, the jury shall be constituted as if to try whether or not she was fit to plead, and shall be sworn in such manner as the court may direct.

(4) The question whether the woman is pregnant or not shall be determined by the jury on such evidence as may be laid before them either on the part of the woman or on the part of the Crown, and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

Method of proof.

16. (1) Whenever the Royal Prerogative of Mercy be exercised in favour of any person convicted of any capital offence it shall be lawful for the Governor-General acting in accordance with the advice of the Minister after consultation with the Advisory Committee on the Prerogative of Mercy constituted under Article 91 of the Constitution to order such person to undergo penal servitude for any period he may think fit and every such person shall thereupon be subject to be treated and dealt with in all respects as if he had been originally sentenced to penal servitude under any Act.

In case of pardon for capital offence Governor-General may order penal servitude. *43 of 1964, Third Sch.; S.I. 40/1969.*

(2) The warrant directing that such person shall undergo penal servitude instead of the sentence of the court shall be in the form of the Third Schedule to this Act.

Third Schedule.

17. The forms in the Schedules to this Act may be varied or added to as circumstances may require.

Forms may be varied.

FIRST SCHEDULE (Section 5(2)).

FORM OF DEATH WARRANT



BAHAMA ISLANDS.

Governor-General.

By His Excellency (*insert here the name and Orders of His Excellency the Governor-General for the time being*), Governor-General of The Bahamas.

WHEREAS in the Supreme Court of Our Lady the Queen, holden in the City of Nassau in the island of New Providence, before The Honourable Chief Justice (or Mr. Justice) (*insert name of the Chief Justice or Justice*) Chief Justice (or Justice) of the said Court in the (*insert month*) Sessions, (*insert name of condemned person*) was in due form of law convicted and received Sentence of Death for the Crime of Murder as in the Information is mentioned.

S.I. 40/1969.

AND WHEREAS in consultation with the Advisory Committee on the Prerogative of Mercy established under the Constitution the Minister designated on that behalf under paragraph (2) of Article 90 of the Constitution has taken into consideration the facts of the case as shown by the notes of the evidence taken at the trial by the said (*insert name of judge*) Chief Justice (or Justice) his report thereon and such other information as has been made available.

S.I. 40/1969.

AND WHEREAS the Minister so designated as aforesaid has advised me that this is not a proper case for the exercise of the Royal Prerogative of Mercy.

IT IS HEREBY ORDERED that you (*insert name of Provost Marshal*) Provost Marshal, are charged with the carrying out of the sentence of the said Court upon (*insert name of condemned person*) on the day of in the year of Our Lord One Thousand Nine Hundred and at the hour of o'clock in the forenoon of that day and that such sentence shall be carried out (within the precincts of the prison in the Island of New Providence or at such other place as may be directed).

Given under my Hand and the Public Seal of The Bahamas at Government House in the City of Nassau, in the Island of New Providence. this day of A.D., 19 and in the year of Her Majesty's Reign.

By His Excellency's Command.

S.I. 40/1969.

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Minister designated under paragraph (2) of Article 90 of the Constitution.

SECOND SCHEDULE (Section 9(1), (3))**CERTIFICATE OF MEDICAL OFFICER**

I, A.B., a Medical Officer (*or as the case may be*) of (*describe prison or place*) hereby certify that I this day examined the body of C.D., on whom judgment of death was this day executed at (*describe same prison or place*) and that on such examination I found that the said C.D. was dead.

Dated this day of

(Signed) A.B.

**DECLARATION OF PROVOST MARSHAL AND OTHERS
(Section 9(2), (3))**

We the undersigned hereby declare that judgment of death was this day executed in (*describe prison or place*) on C.D. in our presence.

Dated thisday of

(Signed)

E.F., Provost Marshal.
L.M., Justice of the Peace.
G.H., Gaoler of
J.K., Chaplain of etc.

THIRD SCHEDULE (Section 16(2))**WARRANT OF REPRIEVE**

BAHAMA ISLANDS

Governor-General

By His Excellency (*insert here the name and Orders of His Excellency the Governor-General for the time being*), Governor-General of The Bahamas.

WHEREAS in the Supreme Court of Our Lady the Queen, holden in the City of Nassau in the Island of New Providence, before The Honourable Chief Justice (or Mr. Justice) (*insert name of the Chief Justice or Justice*) Chief Justice.(or Justice) of said Court in the (*insert month*) Sessions, (*insert name of condemned person*) was in due form of law convicted and received Sentence of Death for the Crime of Murder as in the Information is mentioned.

S.I. 40/1969.

AND WHEREAS in consultation with the Advisory Committee on the Prerogative of Mercy established under the Constitution the Minister designated on that behalf under paragraph (2) of Article 90 of the Constitution has taken into consideration the facts of the case as shown by the notes of the evidence taken at the trial by the said (*insert name of judge*) Chief Justice (or Justice) his report thereon and such other information as has been made available.

S.I. 40/1969.

AND WHEREAS the Minister so designated as aforesaid has advised me that this is a proper instance in which to exercise the Royal Prerogative of Mercy; I do by and in accordance with the power in me vested hereby exercise the Royal Prerogative of Mercy in favour of the said (*insert name of condemned person*).

IT IS HEREBY ORDERED that you (*insert name of Provost Marshal*) Provost Marshal, do not carry out the sentence of the said Court upon the said (*insert name of condemned person*) but that you keep the said (*insert name of condemned person*) to penal servitude (for life or term of years as may be ordered).

Given under my Hand and the Public Seal of The Bahamas at Government House in the City of Nassau, in the Island of New Providence.this day of A.D., 19 and in the year of Her Majesty’s Reign.

By His Excellency’s Command.

S.I. 40/1969.

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Minister designated under paragraph (2) of Article 90 of the Constitution.