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**CHAPTER 54****MAGISTRATES**

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## CHAPTER 54

## MAGISTRATES

**An Act relating to Magistrates.**

[Assent 30th April, 1896]

[Commencement 9th August, 1897]

27 of 1896  
 34 of 1904  
 12 of 1909  
 6 of 1914  
 3 of 1917  
 24 of 1923  
 18 of 1924  
 23 of 1925  
 9 of 1926  
 11 of 1938  
 6 of 1940  
 6 of 1941  
 19 of 1944  
 27 of 1945  
 3 of 1947  
 9 of 1951  
 15 of 1952  
 48 of 1954  
 28 of 1955  
 1 of 1957  
 6 of 1958  
 7 of 1958  
 8 of 1961  
 9 of 1961  
 G. N. 172/1964  
 G. N. 187/1964  
 43 of 1964  
 46 of 1964  
 48 of 1964  
 18 of 1965  
 26 of 1965  
 32 of 1966  
 38 of 1968  
 E.L.A.O. 1974  
 5 of 1987  
 7 of 1991  
 13 of 1992  
 22 of 1994  
 7 of 1995  
 28 of 1996  
 35 of 2009  
 Short title.

1. This Act may be cited as the Magistrates Act.
2. In this Act, unless the context otherwise requires —
  - “adult” means a person who, in the opinion of the magistrate before whom he is brought, is eighteen years of age or upwards;
  - “child” means a person who, in the opinion of the magistrate before whom he is brought, is under fourteen years of age, and of sufficient age and capacity to commit crime;
  - “circuit justice” means a stipendiary and circuit magistrate or the person performing the duties of a circuit justice when on circuit;
  - “civil proceedings” include all small causes as defined by this Act, and all proceedings in relation to the

Interpretation.

5 of 1987, Sch.

1 of 1957, s. 6.  
35 of 2009, s. 2.

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making of an order (i) for the payment of any sum of money declared to be a civil debt, recoverable summarily by any Act, or (ii) for the doing or the abstaining from the doing of any act or thing not enforceable by fine or imprisonment in the first instance;

*6 of 1914, s. 2.*

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

“conviction” means any summary conviction on a complaint or information and includes any order made by a magistrate on any matter brought before him on complaint or information; and also any other order made under the provisions of this Act for the payment of any fine as defined by this Act, not being a judgment in civil proceedings;

“court” means the Supreme Court, and includes a circuit justice on circuit;

*18 of 1924, s. 2.*

“district” in reference to New Providence, means New Providence and all islands and parts of islands and cays situate and being within five leagues of New Providence, or such other islands, parts of islands and cays adjacent thereto as the Governor-General by Order may from time to time declare and determine, and in reference to the Out Islands, means a district constituted under the provisions of the Local Government Act;

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“fine” includes penalty, and also any pecuniary forfeiture or pecuniary compensation, or any sum of money or any costs payable under any decision of a magistrate not being a judgment in civil proceedings;

“goods” means any personal property which may by law be levied on by distress or writ of execution;

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

“imprisonment in the first instance” means imprisonment imposed at the time of the making of a conviction without the option of paying a fine;

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- “indictable offence” means any offence which is triable only at the sessions;
- “information” means a charge made on oath and reduced into writing;
- “judge” means a Justice of the Supreme Court;
- “judgment” means a final decision in civil proceedings, and includes an interlocutory order;
- “magistrate” includes the Chief Magistrate, a Deputy Chief Magistrate, a Senior Stipendiary and Circuit Magistrate and a stipendiary and circuit magistrate, a circuit justice, and a commissioner appointed under the Local Government Act, and also any justice or justices of the peace whilst exercising the powers and jurisdiction of a magistrate according to the provisions of this Act; *18 of 1924, s. 2;*  
*26 of 1965, s. 2;*  
*28 of 1996, s. 2.*
- “magisterial court” means a court presided over by a magistrate; *18 of 1924, s. 2.*
- “offence” means any contravention of any law in force in The Bahamas which is punishable or enforceable on a verdict of a jury or on summary conviction by fine or imprisonment;
- “parent” includes the mother of, and the putative father of, a bastard child;
- “person” includes child, young person and adult, and also a body corporate;
- “sessions” means the Supreme Court sitting to try indictable offences;
- “small cause” means — *15 of 1952, s. 2;*  
*5 of 1987, s. 2;*  
*7 of 1958, s. 2.*
- (a) any action founded on contract where the debt or demand or value of the thing claimed or the rent in arrear is not more than four hundred dollars;
  - (b) any action founded on tort where the demand or damage claimed is not more than four hundred dollars;
  - (c) any action, suit or proceeding for the recovery of any amount not exceeding six hundred dollars entered for trial on the summary side of the Supreme Court save and except an action, suit or proceeding

involving a question of title to land which a magisterial court has no jurisdiction to try, remitted for trial at a magisterial court by the Supreme Court under the provisions of this Act;

*8 of 1961, s. 2.*

“solicitor” includes writer to the signet and attorney;

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

“warrant” includes search warrant, distress warrant and warrant of commitment;

*1 of 1957, s. 6.*

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

## PART I POWERS, DUTIES AND PRIVILEGES OF MAGISTRATES

Jurisdiction of magistrates.  
*18 of 1924, s. 3.*

**3.** (1) Each magistrate is a justice of the peace for the whole of The Bahamas.

(2) Each magistrate has jurisdiction —

As to indictable offences.  
*5 of 1987, Sch.*

(a) to investigate all charges of indictable offences in accordance with the provisions of the Criminal Procedure Code Act;

(b) to exercise all powers vested in, and do all acts authorised to be done by a justice of the peace or two justices of the peace or by a magistrate under any Act of the Parliament of the United Kingdom extended to or in force within The Bahamas:

Provided that a magistrate in an Out Island shall forthwith on the apprehension of a person under the Extradition Act cause such person to be brought before, and to be further dealt with by a magistrate at Nassau;

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(c) to hear and determine in accordance with the provisions of this Act all civil proceedings as defined by this Act, wherein the cause of action has arisen within, or the defendant resides within, the magistrate’s district;

As to civil proceedings.



(d) to hear and determine in accordance with the provisions of the Criminal Procedure Code Act, all and any complaints against any person being or coming within his district concerning the commission of any offence as regards any matter directed or authorised by that or any other Act to be prosecuted or dealt with summarily, and also hear and determine any complaint against any person within his district for the recovery of any fine, penalty or forfeiture not specially assigned by any law to the Supreme Court;

As to summary offences.  
*5 of 1987, Sch.*

(e) to hear and determine all proceedings arising within his district relating to seizures under the revenue laws where the value of the article seized does not exceed forty dollars.

As to seizures under the revenue laws.  
*5 of 1987, s. 2.*

(3) Each magistrate has also jurisdiction, and this Act shall accordingly apply, in relation to any matter where, by any Act of The Bahamas or Act of the Parliament of the United Kingdom extended or applicable to The Bahamas, any offence is directed or authorised to be prosecuted summarily, or any words are used in any such Act implying that such offence is to be prosecuted summarily, or (subject to the provisions of this Act or any such other Act as aforesaid) —

Magistrates' jurisdiction under other Acts.

(a) where any sum of money is directed or authorised to be recovered summarily;

(b) where a magistrate is authorised to order or require a person to do or abstain from doing any act or thing other than the payment of money;

(c) where anything is declared capable of being enforced summarily or by summary order;

(d) where any amount is declared to be recoverable summarily as a civil debt.

(4) The jurisdiction conferred on a magistrate by this or any other Act shall (except where otherwise prescribed by such Act) be exercised by him solely within the limits of his district. And for the purposes of the trial of any offence punishable on summary conviction, the following provisions shall have effect —

Local jurisdiction within magisterial district.  
*9 of 1951, s. 2.*

(a) where the offence is committed within the waters adjoining the district of a magistrate; such offence shall be deemed to have been committed within the district of such magistrate;

- (b) where the offence is committed on the boundary of the districts of two or more magistrates, or within the distance of five hundred yards of any such boundary; or partly within the district of one magistrate and partly within the district of another magistrate, such offence may be dealt with, tried and punished by any one of such magistrates;
- (c) where it is uncertain within which of two or more adjoining districts an offence is committed, such offence may be tried and punished by a magistrate of any of such adjoining districts:

Proviso as to Attorney-General's power to transfer proceedings to another district.

Provided that it shall be lawful for the Attorney-General, if he thinks it expedient so to do, to institute, and also issue his fiat authorising any other person to institute, any proceedings before a magistrate in respect of a matter which is cognisable by a magistrate in another district and thereupon and, in the case of another person, on the production of such fiat to the magistrate, the magistrate shall have jurisdiction to deal with such matter as aforesaid.

Administrator, Deputy Administrator and Assistant Administrator of the magisterial courts.  
*28 of 1996, s. 3.*

**4.** (1) The Governor-General, acting in accordance with the advice of the Public Service Commission, may appoint persons to be respectively the Administrator of the magisterial courts, the Deputy Administrator of the magisterial courts and the Assistant Administrator of the magisterial courts.

(2) The Administrator shall assist the Chief Magistrate in the discharge of his administrative functions as Chief Magistrate and shall have, in addition, such other powers and authorities and perform such other functions as shall be necessary for the due conduct and discharge of the business of the magisterial courts and as the Chief Magistrate shall direct.

(3) The Deputy Administrator and Assistant Administrator shall assist the Administrator in the discharge of his functions as Administrator and may, subject to the directions and instructions of the Administrator, during the temporary absence of the Administrator, lawfully perform all the functions and exercise all the powers of the Administrator under this or any other Act.

(4) There shall be attached to the office of the Administrator, such other officers as may from time to time be required and as may be authorised by any Act of Parliament relating to the public service of The Bahamas.

(5) In this section, “Administrator”, “Deputy Administrator” and “Assistant Administrator” mean the persons respectively appointed as Administrator of the magisterial courts, Deputy Administrator of the magisterial courts and Assistant Administrator of the magisterial courts under the provisions of subsection (1).

### *Justices of the Peace*

5. (1) The Governor-General may appoint by warrant under his hand and the Public Seal any fit and proper person to be a justice of the peace either for the whole of The Bahamas or for any specified area or district or districts, or for any specified period of time.

Appointment of justices under warrant by the Governor-General.  
18 of 1924, s. 4;  
G. N. 187/1964, s. 2.  
13 of 1992, s. 2.

(2) Any such appointment by the Governor-General may be made and constituted by his authorising the entry of the name of the appointee upon the commission of the peace or roll of justices of the peace, or made and constituted by the Governor-General authorising the same to be so entered as attaching *virtute officii* to, and in favour of, the holder, for the time being, of any government office.

Or, by entries on commission of the peace.  
E.L.A.O., 1974.

(3) Any and every such appointment as aforesaid shall be published in the *Gazette* and shall be entered by the Minister responsible for Records on the said commission or roll, which said commission or roll shall continue to be retained for safe custody at the office of the Registrar General.

Control and custody of roll.  
G.N. 172/1964, s. 8.

(4) The Governor-General may order the name of any justice of the peace to be removed from the said commission or roll at any time; and upon such removal being published in the *Gazette*, such person shall cease to be a justice of the peace.

Removal of name from roll.  
13 of 1992, s. 2.

6. Any person appointed, or qualified *ex officio*, to be a justice of the peace is not capable of acting as such until he has taken the oath of allegiance and the judicial oath in accordance with the provisions of the Official Oaths Act.

Oaths to be taken by justices.  
18 of 1924, s. 5.  
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General powers  
of justices.  
*8 of 1924, s. 6.*

**7.** Every justice of the peace shall, within the limits of the area or district in respect of which he is appointed, have the same powers as a magistrate to sign warrants for the apprehension and commitment for safe custody of persons charged with offences and to issue search warrants and to take affidavits and administer oaths.

Preservers of the  
peace.  
*18 of 1924, s. 7.*

**8.** Every justice of the peace shall have power to preserve the peace, to suppress riots and affrays, and to disperse all disorderly and tumultuous assemblies; and for any of these purposes to call in the assistance of the police and all Her Majesty's liege subjects who shall be bound to obey all such lawful commands.

Justices may act  
for a magistrate.  
*18 of 1924, s. 8.*

**9.** (1) Whenever any magistrate is unable from sickness, absence or any other cause, to be present in court, any two justices of the peace may on the request in writing of such magistrate, sit in court in his place and shall while so sitting have all the powers and jurisdiction exercisable by him:

*E.L.A.O., 1974.*  
*28 of 1996, s. 4.*

Provided that the Chief Magistrate may at any time, whenever he shall deem it expedient, authorise any justices of the peace so to act and assist in the place of a magistrate.

(2) Every justice of the peace so acting and assisting as a magistrate shall be entitled to the same immunities and protection as a magistrate is entitled to.

Senior justice to  
preside.  
*18 of 1924, s. 9.*

**10.** (1) In any court consisting of more than one justice of the peace, the justice who is senior in the order of his appointment shall preside and in the event of any disagreement, the opinion of such senior justice shall prevail.

Duties of  
presiding justice.

(2) It shall be the duty of the presiding justice to take the notes of the evidence in the case and to receive, collect and dispose of all fees, fines and other payments that may be due in respect of the case; and all proceedings within the district with reference to an appeal against the decision in any case at the hearing of which he shall have presided, or with reference to anything arising out of such decision shall be taken by or before the presiding justice.

*18 of 1965, Sch; 5*  
*of 1987, Sch.*

**11.** It shall be lawful for the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission, by Order to nominate any justice of the peace, and empower him to try cases singly within the limits of any district or area to be defined by the Order and during the period to be specified in such Order; and any justice of the peace so nominated and empowered may (subject to the terms and conditions of the Order) try cases in the same manner in all respects, and shall be entitled to the same immunities and protection, as a magistrate.

A justice may be nominated by Governor-General to try cases singly.  
*18 of 1924, s. 10; E.L.A.O., 1974.*

**12.** (1) The return required by section 228 of the Criminal Procedure Code Act shall, in the case of justices, be forwarded, through the magistrate of the district and then through the Chief Magistrate, to the Registrar of the Supreme Court and in addition to the particulars required by that section, shall contain corresponding particulars of all cases in which justices of the peace shall have sat in the exercise of any civil jurisdiction.

Duty of justices to furnish returns.  
*28 of 1996, s. 5. Ch. 91.*

(2) It shall be the duty of every magistrate to report to the Chief Magistrate all cases in which any justice within his district shall have failed to furnish such return and the Chief Magistrate shall forward such report to the Attorney-General.

#### *Stipendiary and Circuit Magistrates*

**13.** (1) The Governor-General acting in accordance with the advice of the Judicial and Legal Service Commission may appoint stipendiary and circuit magistrates who shall hold office during pleasure. No person shall be appointed stipendiary and circuit magistrate unless —

Appointment and qualification of stipendiary and circuit magistrates.  
*8 of 1961, s. 3; 43 of 1964, Third Sch; E.L.A.O., 1974.*

- (a) he is a member of at least five years standing of the English, Irish, Scottish or Bahamas Bar, or of the Bar of any other country of the Commonwealth to which a member of the Bahamas Bar is admitted without examination; or
- (b) he has been enrolled and has practised for at least five years as a solicitor in England, Ireland or Scotland, or in any other country of the Commonwealth in which a member of the Bahamas Bar is permitted to practise as a solicitor without examination.

Stipendiary and circuit magistrate to be *ex officio* magistrate for New Providence. 6 of 1914, s. 5; 32 of 1966, s. 2. 28 of 1996, s. 6.

(2) Any person appointed to be a stipendiary and circuit magistrate shall be *ex officio* a magistrate for the whole of The Bahamas and shall have in each and every district all the powers, authorities, jurisdictions, rights, privileges, duties and liabilities conferred or imposed upon a magistrate by any law, but may be assigned by the Chief Magistrate to a particular district or districts and may be transferred by the Chief Magistrate from one district to another. Notwithstanding any such assignment a stipendiary and circuit magistrate so assigned may exercise jurisdiction in any other district or districts.

Times and places for sittings of magisterial courts. 28 of 1996, s. 7. Ch. 36.

**14.** (1) Notwithstanding the provisions of section 5 of the Public Holidays Act, the times for the sittings of a magisterial court are as follows —

- (a) on every day of the year except Saturdays, Sundays and public holidays, from the hour of nine-thirty o'clock in the morning until the hour of five-thirty o'clock in the afternoon or until such later hour as may be determined by the presiding magistrate, with an interval of one hour (for lunch) at a time determined by the presiding magistrate; and
- (b) on every Saturday except public holidays, from the hour of ten o'clock in the morning until the hour of three o'clock in the afternoon:

Provided that the Chief Justice may, by notice, extend the times specified in paragraph (a) or (b), for the sittings of any magisterial court specified in the notice.

(2) The Chief Justice may, by notice, appoint the places for the sittings of magisterial court.

(3) Every notice given by the Chief Justice under subsection (1) or (2) shall be published in the *Gazette* and shall take effect on the publication thereof or at any other time mentioned therein.

(4) A copy of every notice so given shall be posted up in a conspicuous place in every magisterial court room of the district to which it relates.

Jurisdiction when title to land involved. 6 of 1940, s. 2

**15.** In addition to the original jurisdiction conferred upon a stipendiary and circuit magistrate by this or any other Act, a stipendiary and circuit magistrate shall also have jurisdiction and authority to try summarily any case

in which the title to land is involved where the value of the land in dispute shall not exceed two hundred dollars and nothing contained in sections 52 and 53 of this Act shall be deemed to apply to a stipendiary and circuit magistrate exercising jurisdiction under this section.

*5 of 1987, s. 2.*

**16.** (1) The Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission, may appoint a Chief Magistrate and two Deputy Chief Magistrates who shall hold office during pleasure.

Appointment of Chief Magistrate and Deputy Chief Magistrates.  
*28 of 1996, s. 8.*

(2) No person shall be appointed as Chief Magistrate or Deputy Chief Magistrate unless he is qualified to be appointed as a stipendiary and circuit magistrate under section 13 of this Act.

(3) The Chief Magistrate and each Deputy Chief Magistrate shall be *ex officio* a magistrate for the whole of The Bahamas and shall be invested with all the powers, authorities, jurisdictions, rights, privileges, duties and liabilities conferred or imposed upon a stipendiary and circuit magistrate or circuit justice by this or any other Act, but one of the Deputy Chief Magistrates shall be assigned by the Chief Justice to Freeport.

(4) In addition to any other functions conferred upon the Chief Magistrate by this or any other Act, the Chief Magistrate shall be responsible for —

- (a) ensuring the fair distribution of criminal and civil cases filed in the magisterial courts;
- (b) directing the assignment of criminal and civil cases which are to be heard on appeal in the magisterial court; and
- (c) ensuring the effective and efficient performance of administrative matters affecting the magisterial courts.

**17.** The title of Senior Stipendiary and Circuit Magistrate may be conferred upon any number of stipendiary and circuit magistrates by the Governor-General, by instrument under the Public Seal, acting on the advice of the Judicial and Legal Service Commission.

Senior Stipendiary and Circuit Magistrates.  
*28 of 1996, s. 9.*

**18.** (1) The Chief Magistrate and a stipendiary and circuit magistrate shall, in addition to any other jurisdiction conferred upon him by this or any other Act, have jurisdiction to hear and determine any civil cause or matter

Increased civil jurisdiction of certain magistrates.  
*26 of 1965, s. 3.*

where the amount sought to be recovered or the value of

*22 of 1994, s. 2.* the property in dispute does not exceed five thousand dollars.

(2) The provisions of this Act shall apply to the exercise by such magistrate of the jurisdiction conferred upon him by this section in all respects as if the cause or matter were civil proceedings within the meaning of this Act.

Circuit courts to be held.  
*19 of 1944, s. 2.*

**19.** The Circuit Justice shall hold circuit courts in the Out Islands in every year for the hearing of appeals and for the trial of cases to be tried by a circuit justice exercising original jurisdiction under any Act.

Times and places for circuit courts.  
*6 of 1914, s. 7;*  
*E.L.A.O., 1974.*  
Jurisdiction of circuit justices.  
*6 of 1914, s. 15.*

**20.** The circuit courts shall be held at such times and places and in such manner as the Chief Justice may direct.

**21.** The circuit justice shall have jurisdiction to hear appeals in the Out Islands as hereinafter provided. And also to hear and determine all original complaints and civil proceedings which may be brought before him on circuit as fully as if the same had come before him as a magistrate in New Providence.

Powers of acting magistrate.  
*6 of 1914, s. 15.*

**22.** When the circuit justice is on circuit the person acting as stipendiary and circuit magistrate may if he thinks it expedient continue as such magistrate the hearing of and may dispose of any complaint or claim commenced or part heard by a stipendiary and circuit magistrate.

Circuit Justice's jurisdiction in cases of title to land.  
*6 of 1914, s. 9; 6 of 1940, s. 4; 5 of 1987, s. 2.*

**23.** In addition to the original jurisdiction conferred on a circuit justice by any Act the circuit justice shall also have jurisdiction and authority to try summarily any case in which the title to land is involved where the value of the land in dispute shall not exceed two hundred dollars and nothing contained in sections 52 and 53 of this Act shall be deemed to apply to a circuit justice exercising jurisdiction under this section.

Appeal from original jurisdiction.  
*28 of 1996, s. 10.*  
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**24.** Subject to section 234 of the Criminal Procedure Code Act, an appeal shall lie to the Supreme Court in any case in which a circuit justice exercises original jurisdiction on circuit.



**25.** A small cause may be removed from any magisterial court for trial in the Supreme Court —

Removal of small causes to Supreme Court.  
*6 of 1914, s. 11.*

- (1) if the Supreme Court shall, on the application of either party, deem it desirable that the action be tried in the Supreme Court and shall, by writ of *certiorari* or otherwise, order its removal for trial in the Supreme Court. Any order for removal may be given upon such terms as to payment of costs, giving security or otherwise as the Supreme Court shall think fit to impose;
- (2) in any action of contract where the plaintiff shall claim a sum exceeding forty dollars, or in any action of tort where the plaintiff shall claim a sum exceeding twenty dollars, if the defendant shall give notice that he objects to the action being tried by the magistrate and shall give security to be approved by the magistrate for the amount claimed and the costs of trial in the Supreme Court, and if the magistrate shall certify that in his opinion some important question of law or fact is likely to arise,

*5 of 1987, s. 2.*

and in any such event all proceedings in the magisterial court in such small cause shall be stayed and the entry of the plaint of such small cause in the magisterial court shall be a sufficient commencement of the action to prevent the operation of any statute of limitations applicable to the claim.

**26.** It shall be lawful for either party to an action in which the amount claimed is not more than six hundred dollars and which has been entered for trial on the Summary Side of the Supreme Court to apply to a judge in chambers to order such action to be tried in the magisterial court of the Out Island where the parties or either of them reside or carry on business, or in any court convenient thereto; and on the hearing of the application the judge shall, unless there is good cause to the contrary, order such action to be tried accordingly; and thereupon the Registrar of the Supreme Court shall transmit by post a certified copy of all proceedings therein to the magistrate of the court named in the order who shall appoint a day for the trial and notify all parties of the same, and the action and all proceedings therein shall be tried and taken in such magisterial court as if the action had been originally

Removal of action from Supreme Court to magisterial court.  
*6 of 1914, s. 12;*  
*15 of 1952, s. 3;*  
*7 of 1958, s. 2;*  
*5 of 1987, s. 2.*

commenced therein; and the costs of the parties in respect of the proceedings subsequent to the order of the judge shall be allowed according to the scale of costs for the time being in force at the magisterial court, and the costs of the order and all the proceedings previously thereto shall be allowed according to the scale of costs for the time being in force on the Summary Side of the Supreme Court:

Provided that, except with the consent of both parties, an order to remit for trial as aforesaid any such action as is founded on tort shall only be made where the defendant makes an affidavit and satisfies the court that the plaintiff has no visible means of paying the costs of the defendant should a verdict be not found for the plaintiff and the plaintiff fails to obey an order of the judge requiring the plaintiff to give full security for the defendant's costs.

Performance of duties of stipendiary and circuit magistrate by others.  
*6 of 1914, s. 14;*  
*19 of 1944, s. 2;*  
*E.L.A.O., 1974.*

**27.** Whenever a stipendiary and circuit magistrate by reason of absence, illness, interest in any cause or matter, or for any other reason, is, in the opinion of the Chief Justice, incapable of acting, or it is undesirable that he should act as such magistrate or as circuit justice, his duties as such magistrate of circuit justice shall be performed by some other fit and proper person to be appointed by the Chief Justice.

Magistrate may deliver judgment prepared by predecessor.  
*7 of 1991, s. 4.*

**28.** Unless the Chief Justice otherwise directs, where a magistrate has completed the hearing of a trial in any civil proceedings save for the delivery of the judgment and subsequently ceases to act as a magistrate or is transferred to another district, that magistrate may nevertheless prepare the judgment to be delivered in respect of the trial and that judgment may be read by his successor.

Transfer of civil proceedings.  
*22 of 1994, s. 3.*  
*28 of 1996, s. 11.*

**29.** (1) The Chief Magistrate may transfer any civil proceedings listed in a magisterial court in New Providence or Grand Bahama presided over by a magistrate to any other magisterial court in New Providence or Grand Bahama, as the case may be, presided over by a magistrate.

(2) Notwithstanding subsection (1), where a transfer of civil proceedings is made in respect of a matter in which the hearing of evidence in those proceedings has begun, the hearing of the evidence shall be restarted.

**30.** Every action hereafter to be brought against any magistrate for any act done by him in the execution of his duty as such magistrate, with respect to any matter within his jurisdiction as such magistrate, shall be in the nature of an action on the case as for a tort; and in the declaration or claim it shall be expressly alleged that such act was done maliciously, and without reasonable and probable cause, and if at the trial of any such action, upon the general issue being pleaded, the plaintiff shall fail to prove such allegation, he shall be nonsuit, or a verdict shall be given for the defendant.

Every action against a magistrate must allege that act was done maliciously.

**31.** For any act done by a magistrate in a matter of which by law he has not jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any conviction or order made or warrant issued by such magistrate in any such matter, may maintain an action against such magistrate in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his declaration or claim that the act complained of was done maliciously and without reasonable and probable cause:

Conditions under which action may be brought.

Provided that no action shall be brought for anything done under any such conviction or order until after such conviction or order shall have been quashed by the Supreme Court; nor shall any such action be brought for anything done under any such warrant which shall have been issued by such magistrate to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after such conviction or order shall have been so quashed as aforesaid; or if such last-mentioned warrant shall not have been followed by any such conviction or order, or if it be a warrant upon an information for an alleged indictable offence; nevertheless if a summons were issued previously to such warrant, and such summons were duly served and he did not appear according to the exigency of such summons, in such case, no such action shall be maintained against such magistrate for anything done under such warrant.

Action to be brought against convicting magistrate.

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

*Mandamus* to magistrate refusing to act.

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

Defect in conviction not to operate against magistrate issuing warrant of distress, etc.

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

Supreme Court may set aside proceedings in action.

**35.** In all cases where by this Act it is enacted that no action shall be brought under particular circumstances, if any such action is brought, it shall be lawful for the Supreme Court upon the application of the defendant, and upon an affidavit of facts, to set aside the proceedings in such action, with or without costs.

Damages.

**36.** In all cases where the plaintiff in any such action as aforesaid is entitled to recover, and proves the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages for any such imprisonment, he shall not be entitled to recover the

amount of such penalty or sum so levied or paid, or any sum beyond the sum of five cents as damages for such imprisonment, or any costs of suit whatsoever if it is proved that he was actually guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay.

*5 of 1987, s. 2.*

## PART II SUMMARY CIVIL JURISDICTION

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

Plaintiff and defendant may give evidence.

**38.** The fees specified in the Second Schedule to this Act shall be paid in advance in all civil proceedings:

Fees to be taken.  
Second Schedule.

Provided that in cases where the magistrate is satisfied of the inability of any plaintiff to pay the prescribed fees, and that the plaintiff has *prima facie* a good ground of claim, the magistrate may in his discretion remit the same:

Cases where fees may be remitted.

Provided also that in all such cases if judgment is given for the plaintiff, such fees as would in other cases be chargeable shall be charged to and recovered from the defendant.

**39.** No claim amounting in the whole to a sum exceeding the amount by which the jurisdiction of a magistrate is limited by any Act shall be split so as to be made the ground of two or more different summonses in order to bring such cases within the jurisdiction of the magistrate and if the magistrate shall find that the plaintiff in any case has split his cause of action as aforesaid, he shall dismiss such summons or summonses but without prejudice to the plaintiff's right to sue on the cause of action in such other manner as he shall think fit:

Claims may not be split.  
*6 of 1914, s. 15.*

Provided that, if the plaintiff is content to recover a sum not exceeding any amount by which the jurisdiction of the magistrate is limited, the magistrate shall entertain the

summonses and in case any judgments shall be given in favour of the plaintiff the same shall be a full discharge and satisfaction of the whole cause of action and it shall be so expressed in the body of the judgment.

Set-off.  
*6 of 1914, s. 15.*

**40.** In any small cause the defendant may plead and prove a set-off or counter-claim against the plaintiff:

Provided that the amount claimed whether by set-off or counter-claim does not exceed the amount by which the jurisdiction of the magistrate is limited in the particular case.

Powers of compulsion on witnesses.

**41.** Any person summoned to give evidence or to produce any document, and failing or refusing to obey such summons, and any person present and required to give evidence refusing to be sworn or to give evidence, shall (unless he satisfies the magistrate that he has a reasonable excuse for so failing or refusing) be liable to pay a fine of twenty dollars.

*5 of 1987, s. 2.*

Magistrate may order a new trial.

**42.** A magistrate may order a new trial to be had between the parties upon such terms as to costs or otherwise as he shall think reasonable, and in the meantime stay all proceedings.

Costs.

**43.** The costs of all civil proceedings shall be in the discretion of the magistrate, and shall be limited to the fees comprised in the Second Schedule to this Act:

Second Schedule

*22 of 1994, s. 4.*

Provided that the magistrate may in addition to such fees, in his discretion, allow any reasonable sum or sums, not exceeding five hundred dollars by way of compensation for the attendance and loss of time of the parties and witnesses, and attorney's costs, and all sums so allowed in any civil proceeding shall be recovered as costs therein.

Execution.

**44.** Every judgment or order may be enforced by sale of the goods of the defendant, or by attachment of moneys due to him by any third party. And the magistrate shall have power to hear and determine all matters of interpleader.

Judgments not to be enforced by imprisonment.

**45.** No judgment or order, or order for the payment of any costs awarded shall be enforced by imprisonment except as hereinafter prescribed.

**46.** Where any defendant shall make default in the payment of any judgment debt, or of any sum ordered to be paid, or any instalment, or any costs, and he either has or has had since the date of the order the means to pay the same and has refused or neglected or refuses or neglects to pay the same, the magistrate may commit him to prison without hard labour for six weeks or until payment of the sum due; and may issue all necessary warrants in that behalf.

Except in the case of a judgment debtor on a judgment summons.

**47.** Where power is given by any Act to a magistrate of requiring any person to do or abstain from doing any act or thing other than the payment of money or requiring any act or thing to be done or left undone other than the payment of money and no mode is prescribed for the enforcing such requisition, the magistrate may exercise such power by an order, and may annex thereto any conditions as to time or mode of action as to him may seem just, and may suspend or rescind such order on such undertaking being given or condition being performed as to him may seem just, and may make such arrangements for carrying such power into effect as may seem expedient.

Procedure when the doing or abstaining from the doing of any act is ordered.

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

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

*5 of 1987, Sch.*

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

Provided the imprisonment does not exceed six months, and the penalty, \$80.

*5 of 1987, s. 2.*

All moneys collected to be paid to magistrate or clerk.

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

Rules.  
First Schedule  
Ch. 53; 46 of  
1964, Sch.

**51.** The rules comprised in the First Schedule to this Act shall regulate all civil proceedings. And it shall be lawful for the Rules Committee under section 75 of the Supreme Court Act to rescind, alter or add such rules as occasion may require in the manner and form prescribed by this Act for the making, rescinding, altering or adding rules. And any rule so made, altered or added shall have the same force and effect as if enacted in such Schedule as aforesaid.

### PART III TITLE TO LAND

Magisterial court has no jurisdiction where there is title to land in dispute.

**52.** Subject to the provisions of section 15 and section 23 of this Act, a magisterial court shall have no jurisdiction to try summarily any case in which title to land or any interest therein is directly or incidentally in dispute:

34 of 1904, s. 11.

Provided that this section shall not apply to the following cases —

- (1) where the claim to such title is impossible in law;
- (2) where, in the opinion of the court, the claim to such title is not set up in good faith;
- (3) where, in the opinion of the court, the act complained of was not done in assertion of the title claimed;
- (4) where the main point at issue is a dispute as to the correct position of the boundary line of the land in respect of which the action is brought.

6 of 1914, s. 15.

Nature of title claimed to be stated by the defendant; procedure.  
34 of 1904, s. 12.

**53.** (1) In any case in which the defendant objects to the jurisdiction of a magisterial court on the ground that title to land or any interest therein is in dispute, the court shall require the defendant to state the nature of the title claimed.



(2) If the court shall thereupon be of the opinion that the claim is impossible in law it shall overrule the objection and proceed with the case.

(3) In all other cases the court may in its discretion require to be satisfied by evidence that the claim to such title is set up in good faith or that the act complained of was done in assertion of the claim, or that the main point in issue involves more than a dispute as to the correct position of the boundary lines of the land in respect of which the action is brought; and unless the court is so satisfied it shall overrule the objection and proceed with the case.

*6 of 1914, s. 15.*

(4) Alternately the court may in its discretion proceed with the case, and postpone its decision as to the question of jurisdiction until it shall have heard all the evidence in the case.

*34 of 1904, s. 12.*

#### PART IV<sup>1</sup> APPEALS

**54.** (1) An appeal shall lie from the decision of a magistrate given in the exercise of his summary jurisdiction, whether matrimonial or civil, in the following cases only, that is to say —

When an appeal lies.  
*3 of 1947, s. 2 5  
of 1987, s. 2 and  
Sch.*

- (a) in civil proceedings, when the sum claimed exceeds one dollar exclusive of costs;
  - (b) in civil proceedings, when the order for imprisonment was not made only for the enforcing of a judgment or order for the payment of money or as the alternative for failure to comply with an order for the doing or abstaining from doing any act or thing required to be done or left undone, or for the finding of sureties or for the entering into recognisances for the giving of security.
- (2) Appeals under this section shall lie —
- (a) where the case has been heard by the Chief Magistrate of a stipendiary and circuit magistrate, to the Supreme Court;

To what court.  
*32 of 1966, s. 6.*

<sup>1</sup> Note: By Section 271 of the Criminal Procedure Code Act (No. 38 of 1968), this Part ceased to apply to criminal appeals, as to which see that Act (Ch. 91).

- (b) in all other cases to the Chief Magistrate, a stipendiary and circuit magistrate or a circuit justice on circuit.

Duty of magistrate on giving appealable decision.

**55.** A magistrate upon giving any decision which is appealable, shall inform the party to whom the decision is adverse that he has a right to appeal therefrom, and what steps must be taken by a party wishing to appeal, and a note shall be made at the time by the magistrate that such information has been given by him to such party as aforesaid; and every such note shall be conclusive as to the provisions of this section having been complied with.

Appeal operates as a stay. Motion or special case.

**56.** The appeal shall have the effect of suspending the execution of the decision appealed from until the case shall have been determined, and shall be on motion, or, where the case has been heard in New Providence, by special case as hereinafter provided.

Notice of appeal 6 of 1941, s. 5.

The appellant, within seven days after the day on which the magistrate has given his decision, shall serve a notice in writing, signed by the appellant or his counsel or attorney, on the other party and on the magistrate of his intention to appeal and of the general grounds of his appeal:

Provided that any person aggrieved by the decision of a magistrate may, upon notice to the other party, apply to the court to which an appeal from such decision lies, for leave to extend the time within which the notice of appeal prescribed by this section may be served, and the court upon the hearing of such application may extend the time prescribed by this section as it deems fit.

Recognisance or security to be taken.

**57.** The appellant shall within three days after the day on which he served notice of his intention to appeal, enter into a recognisance before a magistrate, with or without sureties as the magistrate may direct, conditioned to prosecute the appeal to judgment and to abide the judgment thereon of the court, and to pay such costs as may be awarded by it, or, if the magistrate thinks it expedient, he may instead of entering into recognisances give such other security by deposit of money with the magistrate or otherwise as the magistrate deems sufficient.

**58.** (1) The magistrate, when the case has been heard in New Providence, shall without delay transmit to the Registrar of the Supreme Court a copy of the order or judgment and all papers relating to the appeal and, if the appellant is represented by counsel or an attorney, such counsel or attorney, as the case may be, shall not less than three days prior to the date of the hearing of the appeal serve upon the Registrar and the respondent a notice containing particulars of the matters of law or of fact in regard to which the magistrate is alleged to have erred.

Transmission of appeal papers.  
*48 of 1954, s. 6; 5 of 1987, Sch.*

(2) The magistrate, when the case has been heard in an Out Island, shall without delay notify the circuit justice of the lodging of the appeal, and shall deliver a copy of the order or judgment and all papers relating to the appeal to the circuit justice on his arrival in such island as aforesaid.

**59.** In all cases of appeal by way of special case the appellant shall, within the times and in the manner and form hereinbefore prescribed, serve a notice of appeal and enter into recognisances, and shall within fourteen days after the day on which the magistrate gave his decision, apply to such magistrate to state a special case for the purposes of the appeal, setting forth the facts of the case and the grounds on which the proceeding is questioned and the grounds of the magistrate's decision.

Special case.

**60.** The magistrate may refuse to state a case if he considers the matter is frivolous, and shall on request deliver to the appellant a certificate of refusal, and thereupon the appellant may apply to the Supreme Court for an order requiring the case to be stated:

Remedy if special case refused.

Provided that the magistrate shall not refuse to state a case where the application for that purpose is made to him by or under the direction of the Attorney-General.

**61.** The magistrate, upon receiving the application of the applicant, or the order of the Supreme Court, as the case may be, shall draw up the special case, concisely setting forth such facts and documents (if any) as may be necessary to enable the court to decide the questions raised in the case, and shall forthwith transmit the same, together with a copy of the order or judgment appealed from and all documents alluded to in the special case, to the Registrar

Duty of magistrate as to special case. How the parties may obtain copies of special case.

*5 of 1987, Sch.*

of the Supreme Court who, on application of either party, shall supply such applicant with a copy of the special case on payment for the same at the rate of twenty-five cents per folio.

Appellant entitled to copies of evidence, etc.

*5 of 1987, Sch.*

**62.** On an appeal by motion the appellant on serving notice on the magistrate of his intention to appeal, and on entering into recognisances as aforesaid, shall be entitled to receive with all convenient speed a copy of the evidence taken by the magistrate in the case, and also a copy of the order or judgment made or given on payment for the same at the rate of twenty-five cents per folio.

Registrar to set appeal down for argument.

**63.** The Registrar shall in either case set the appeal down for argument on such day, and shall cause notice of the same to be published in such manner, as the court may direct.

Appeal not a rehearing unless the court so directs.  
*5 of 1987, Sch.*

**64.** On an appeal by motion, unless the court considers the justice of the case requires a re-hearing, the appellant shall begin, and unless he satisfies the court that it is necessary to call on the respondent, the order or judgment shall be confirmed:

Provided that, if the court directs a re-hearing, the respondent, if the issue is with him, shall begin and prove his case, and the court may, if the justice of the case requires it, adjourn the hearing to some convenient day.

Procedure on hearing of appeal on motion.  
*48 of 1954, s. 7.*

**65.** At the hearing of an appeal on motion, the appellant shall, before going into the case, state all the grounds of appeal on which he intends to rely, and shall not, unless by leave of the court, go into any matters not raised by such statement, nor shall he be entitled to examine any witnesses not examined at the hearing of the case before the magistrate unless he has given to the respondent three clear days' notice in writing of the names and addresses of such witnesses and of the substance of the evidence they will give and unless he has subsequently obtained the leave of the court to the examination thereof.

Court on hearing appeal on motion to decide on facts as well as law.

**66.** On an appeal by motion the court may draw inferences of fact from the evidence given before the magistrate, and, subject to due notice having been given as hereinbefore mentioned, shall hear any further evidence tendered by the appellant, and may take and admit, if it

think fit, any further evidence tendered in reply and also such other evidence as it may require, and it may decide the appeal with reference both to matters of fact and to matters of law.

**67.** On appeal by special case the court shall only entertain such appeal on the ground that the decision of the magistrate was erroneous in point of law, or in excess of jurisdiction, and only upon the facts stated and the evidence mentioned in the special case. And the court may remit the case to the magistrate for amendment if necessary.

On appeal by special case court confined to facts and evidence stated therein.

**68.** The court may adjourn the hearing of the appeal, and may upon the hearing thereof confirm, reverse, vary or modify the decision of the magistrate or remit the matter with the opinion of the court thereon to the magistrate, or may make such other order in the matter as it may think just, and may by such order exercise any power which the magistrate might have exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the magistrate.

Powers of court on hearing appeals.

**69.** The court may make such order as to the costs to be paid by either party as it may think just, and in the event of costs being allowed may direct a lump sum to be paid by way of costs not exceeding fifty dollars, for each day of attendance at court according to the importance of the appeal, or the length of time occupied by the hearing thereof, and such sum shall cover all fees of office and all fees of counsel or attorney:

Costs.

*5 of 1987, Sch; 6 of 1958, s. 2.*

Provided that no magistrate shall be liable to any costs in respect of any appeal against his decision.

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

Where appeal is abandoned court may give respondent his costs.

**71.** No judgment shall be given in favour of the appellant if the appeal is based on an objection to any summons or warrant for any alleged defect therein in matter of substance or for any variance between such summons or warrant, and the evidence adduced in support

No appeal on point of form or matter of variance.

Exception

thereof, unless it be proved that such objection was raised before the magistrate whose decision is appealed against, and that, notwithstanding it was shown to such magistrate that by such variance the appellant had been deceived or misled, such magistrate refused to adjourn the hearing of the case to a future day.

Court may decide on merits notwithstanding any defect in form.  
*5 of 1987, Sch.*

**72.** In any case of appeal the court may hear and determine the case upon the merits, notwithstanding any defect in form or otherwise in the order or judgment.

No *certiorari*.

**73.** No order shall be quashed for want of form or removed by *certiorari* into any other court, and no warrant of commitment shall be held void by reason of any defect therein:

Defect in warrant of commitment not to render void.  
*5 of 1987, Sch.*

Provided that it be therein alleged that the party has been ordered to do or abstain from doing any act or thing required to be done or left undone, and there be a good and valid order to sustain the same.

How costs are payable.

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

How costs are recoverable.  
*5. of 1987, Sch.*

**75.** If the costs on the appeal are not paid within the time ordered by the court, the proper officer shall, on the application of the party entitled to the same, or any person duly authorised on his behalf, and on payment of the prescribed fee (if any), grant to such party a certificate that such costs have not been paid, and on production thereof to any magistrate in the district where the case was heard, such magistrate shall enforce the payment of costs in the manner prescribed by the Criminal Procedure Code Act for enforcing the payment of a fine imposed on a summary conviction, and where a recognisance with sureties has been entered into, shall enforce the payment due thereunder in the manner prescribed by this Act:

Ch. 91.

Provided that on an appeal from a decision of a magistrate in civil proceedings, the court shall not order imprisonment for the enforcing payment of any costs except as provided by that Part of this Act relating to civil proceedings.

76. Whenever the decision of a magistrate is confirmed on appeal the Registrar of the Supreme Court shall inform the magistrate of such confirmation, and thereupon the magistrate sitting for the same district may issue a warrant of distress, or commitment, or writ of execution, as the case may be, for enforcing such decision in the same manner as though no appeal had been brought.

Where decision confirmed, warrant may issue as though no appeal had been made.

Whenever the decision is not confirmed, the Registrar of the Supreme Court shall send to the magistrate, from whose decision the appeal was made, for entry in his register, and shall also endorse on the order or judgment appealed against, a memorandum of the decision of the court, and whenever any copy of certificate of such judgment or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the decision on appeal in every case where such copy or certificate would be sufficient evidence of such order or judgment.

Where decision not confirmed.  
5 of 1987, Sch.

77. (1) It shall be the duty of any magistrate on any Out Island against whose decision an appeal has been entered, on receiving notice by the *Gazette* of the circuit of the circuit justice, to serve a notice upon the parties to the appeal stating as nearly as possible the date at which the circuit justice may be expected at the place at which the appeal is to be heard, and the appeal shall not be heard in the absence of either party unless it shall be proved to the circuit justice that such party has been duly served with a notice under this section:

Notice required to be served upon the parties to an appeal.  
34 of 1904, s. 10.  
6 of 1940, s. 2

Provided that, on the entering of an appeal at an Out Island, each of the parties to the appeal shall forthwith serve on the magistrate of the district in which the appeal is to be heard a notice in writing stating an address for service in The Bahamas at which notice of the hearing of the appeal may be left for them and the leaving of the said last mentioned notice at the said address shall be good and sufficient service on the parties:

Provided further that such address for service may be altered by either party giving notice of a change of address to be served on the magistrate as aforesaid at any time before the service of the said notice of hearing as aforesaid. And in the event of no such address for service being given, the circuit justice may deal with the case in the absence of both or either of the parties.

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Mileage fees. (2) A peace officer or other person serving any such notice shall be entitled to the same mileage fees as those fixed by the Second Schedule to this Act and all such fees shall be costs in the appeal.

Second Schedule.

## PART V DISTRESS

What may not be taken.  
*5 of 1981, Sch.*

**78.** The wearing apparel and bedding of a person and his family, and to the value of one hundred dollars the tools and implements of his trade, shall not be taken under a distress issued by a magistrate.

Warrant, how executed.

**79.** A warrant of distress shall be executed by or under the direction of a peace officer.

Public auction after five days.

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

Sale within fourteen days.

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

Impounding goods levied on.

**82.** Subject to any directions to the contrary given by the warrant of distress, where the distress is levied on household goods, the goods shall not, except with the consent in writing of the person against whom the distress is so levied, be removed from the house until the day of sale, but so much of the goods shall be impounded as are in the opinion of the person executing the warrant sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark.

Account to be sent to magistrate of costs.

**83.** A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall be sent by the peace officer charged with the execution of the warrant so soon as practicable to the magistrate issuing the warrant, and it shall be lawful for



the person upon whose goods the distress was levied, within one month after the levy of the distress, to inspect such account without fee or reward at any reasonable time to be appointed by the magistrate, and to take a copy of such account.

**84.** A peace officer charged with the execution of a warrant of distress shall cause the distress to be sold, and may deduct out of the amount realised by such sale all costs and charges actually incurred in effecting such sale, and shall render to the owner the overplus, if any, after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.

Costs of sale to be deducted from proceeds.

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

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

**86.** It shall be lawful for any person other than the person mentioned in the warrant, claiming to be the owner of the property levied on, within the five clear days in section 80 of this Act mentioned, to cause to be replevied in the manner and form in which goods are replevied which have been distrained upon for non-payment of rent. And if within such five days as aforesaid the property levied on is not replevied, no person other than the person mentioned in the warrant aforesaid shall have any right of action against any other person in respect of such property.

Replevy.

## PART VI DESTRUCTION OF ANIMALS

**87.** Where any animal is found which appears to be suffering from old age, disease or otherwise, it shall be the duty of every peace officer to seize and carefully convey the same to some convenient place set apart for the purpose and there to detain the said animal.

Animal suffering to be detained.  
*23 of 1925, s. 2.*

Magistrate to be notified.  
*23 of 1925, s. 3.*

**88.** Every peace officer so seizing and detaining any animal shall forthwith notify the fact to a magistrate who shall without delay summon the owner, or the person in whose custody the animal was found, to appear before him to show cause why the said animal should not be destroyed.

Animal may be inspected.  
*23 of 1925, s. 4.*

**89.** It shall be lawful for the magistrate to cause any such animal to be inspected by a veterinary surgeon or other qualified person for the purpose of ascertaining whether such animal is suffering and should in the opinion of the said veterinary surgeon or other person be destroyed.

Magistrate may order destruction of animal.  
*23 of 1925, s. 5.*

**90.** Where the magistrate is satisfied that any such animal is suffering and should in his opinion be destroyed, he shall by an order in writing order the destruction of the same.

No compensation.  
*23 of 1925, s. 6.*

**91.** No person shall be entitled to any compensation for any animal destroyed under the provisions of this Part of this Act.

Expenses.  
*23 of 1925, s. 7.*

**92.** All expenses incurred in carrying out the provisions of this Part of this Act shall be paid out of the Consolidated Fund by warrant in the usual manner.

## PART VII MISCELLANEOUS

Expenses provided for.  
*9 of 1961, s.2;*  
*E.L.A.O. 1974;5*  
*of 1987, Sch.*

**93.** (1) The Minister of Finance may from time to time grant warrants upon the Treasury for the payment of expenses of the description hereinafter enumerated upon being satisfied that the services charged for were not only actually performed, and the charges therefor fair and reasonable, but that such services were necessary for the due and proper administration of justice; that is to say, for the payment of such sums as appear to the magistrate reasonably sufficient to compensate any witness for the expense, trouble or loss of time properly incurred in or incidental to his attendance and giving evidence; and for the expenses attending the conveyance of any such witness from his ordinary place of abode to the place where the trial or investigation may be held.

(2) In this section the expression “witness” means a person properly attending to give evidence, whether or not he gives evidence.

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

Description of  
the property of  
partners, etc.  
*5 of 1987, Sch.*

**95.** No objection shall be allowed to any summons or warrant for any alleged defect therein in substance or in form.

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

*5 of 1987, Sch.*

**96.** A warrant of distress shall not be deemed void by reason only of any defect therein if it be therein alleged that an order has been made and there is a good and valid order to sustain the same. And no peace officer acting under any warrant shall be deemed a trespasser from the beginning by reason of any defect in the warrant, or of any irregularity in the issue of the warrant, but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any irregularity in the execution of a warrant, so, however, that if amends are tendered before action brought, and if the action is brought are paid into court in the action; and if the plaintiff does not recover more than the sum so tendered and paid into court, the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs to be taxed as between attorney and client.

Warrant of dis-  
tress not to be  
impeached for  
want of form.

*5 of 1987, Sch.*

Power to magistrate to adjourn and remand.  
*5 of 1987, Sch.*

**97.** If at any time during any proceedings before a magistrate it shall become necessary to adjourn the hearing of the same, the magistrate may from time to time adjourn the case to a certain time and place to be then appointed, in the hearing of the parties, or their counsel or attorneys.

Fees in summary proceedings.  
*5 of 1987, Sch.*  
Second Schedule.

**98.** The sums set forth in the Second Schedule to this Act shall be charged and paid in advance upon civil proceedings taken and had before a magistrate.

Proof by declaration of service of process or of handwriting, etc.

**99.** In a proceeding within the jurisdiction of a magistrate, without prejudice to any other mode of proof, service on a person of any summons, notice, process or document required or authorised to be served, and the handwriting and seal of any magistrate or other officer or person on any warrant, summons, notice, process or document may be proved by a solemn declaration taken before a magistrate or before any person authorised to take declarations, and any declarations purporting to be so taken shall, until the contrary is shown, be sufficient proof of the statements contained therein, and shall be received in evidence in any court or legal proceeding without proof of the signature or of the official character of the person or persons taking or signing the same.

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

Disposal of fees, fines, etc.  
*E.L.A.O. 1974; 5 of 1987, Sch.*

**100.** All fees, proceeds of forfeitures and other moneys coming into the hands of a magistrate or a clerk of the magistrate shall be paid by him into the Treasury at such times as the Minister responsible for Legal Affairs may direct, except where otherwise provided by any Act.

Register of court of magistrate.  
*5 of 1987, Sch.*

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

(2) A full and true account shall be kept of every sum paid to the clerk or magistrate under this Act, and the appropriation of such sum shall be entered and authenticated in such manner as may be from time to time directed by a rule under this Act.

(3) Every such register shall be open for inspection without fee or reward by any magistrate, or by any person authorised in that behalf by a magistrate or by the Governor-General:

Provided that the magistrate may in addition to such fees, in his discretion, allow any reasonable sum or sums, not exceeding five hundred dollars by way of compensation for the attendance and loss of time of the parties and witnesses, and attorney's costs, and all sums so allowed in any civil proceeding shall be recovered as costs therein.

**102.** (1) Notwithstanding anything to the contrary in any law where adequate equipment is provided for recording mechanically the evidence and proceedings in any cause or matter, whether civil or criminal, heard before a magisterial or coroner's court, the presiding magistrate or coroner, as the case may be, may proceed to have such evidence and proceedings recorded by that equipment.

Record of court  
proceedings.  
7 of 1995, s. 2.

(2) Save as provided in subsection (1) the provisions of section 77 of the Supreme Court Act shall *mutatis mutandis* apply to the mechanical recording of such evidence and proceedings.

Ch. 53.

**103.** The Rules Committee under section 75 of the Supreme Court Act may from time to time make rules in relation to the following matters, or any of them, that is to say —

Rules.  
46 of 1964, Sch.  
Ch. 53.

- (a) the giving of security under this Act;
- (b) the regulating of all civil proceedings under this Act;
- (c) the forms to be used under this Act;
- (d) the regulating of the form of the register and the account to be rendered by magistrates or clerks of magistrates of fees, and other sums received by them;
- (e) the regulating of the procedure on appeals by special case or otherwise under this Act;

5 of 1987, Sch.

9 of 1961, s. 3.

- (f) any other matter in relation to which rules are required to be made under or for the purpose of carrying this Act into effect;
- (g) the rates or scales of payment of expenses of witnesses under section 93 of this Act.

## SCHEDULES<sup>2</sup>

### FIRST SCHEDULE (Section 125)

#### MAGISTRATES' RULES OF COURT 1934

##### PART I

##### COMMENCEMENT OF PROCEEDINGS

Issue of  
summons.

1. All civil proceedings shall be commenced by application to a magistrate for the issue of a summons.

Contents of  
summons.

2. (1) The summons shall contain the names and addresses of the parties and the day on which the defendant is to appear and shall be endorsed with a statement of the nature and where possible with the particulars of the claim or of the relief claimed. If necessary particulars may be attached to the summons. In the case of a summons issued in New Providence where the defendant resides therein the day of appearance shall not be less than five days or more than thirty days after the issue of the summons, and where the defendant resides in a district other than that in which the summons is issued the day of appearance shall not be less than fourteen days or more than forty-two days after the issue of the summons. In cases where a summons is issued at an Out Island by the magistrate for service within his district, the day of appearance shall not be less than five days or more than twenty days after the issue of the summons:

Provided the magistrate may, on application, extend the number of days.

Circuit  
summons.

(2) In cases where a summons is issued by a stipendiary and circuit magistrate while on circuit the day of appearance shall not be less than twenty-four hours, or more than five days after the issue of the summons.

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<sup>2</sup> Note: The First and Second (together with a Third Schedule here printed as a Schedule to the rules in the First Schedule to the Act) were inserted, in place of the original First and Second Schedules, by the Magistrates Rules of Court 1934, which were stated to be made under S. 125 of the Act and were dated 6th October 1934 (see O.G. 13th October 1934, Notice No. 200 at p. 355). They were expressed to be amended by the Magistrates (Increase of Court Fees) (Amendment) Rules of Court 1953 (see *Post*).

(3) In the case of a summons applied for in the Magistrate's Court on its civil side where it is shown upon oath to the satisfaction of the magistrate that the defendant is a transient person, and is likely to leave the district before the expiration of the minimum period of five days fixed for the day of appearance, the magistrate may, in his discretion, in issuing the summons, make the same returnable at any time. Service of such summons shall be personal unless the magistrate issuing the same shall otherwise order.

Short notice summons.

(4) Where a summons has been issued, the magistrate upon proof under oath that any person who is a material witness in the case may leave the Island before the day of appearance fixed by such summons, may summon such person to appear before him at any time prior to the day of appearance to be examined on behalf of either party in the cause.

Short notice witness summons.

(5) Written notice of such examination must be given by the party proposing to have such witness examined to the other party to the cause. And upon the magistrate being satisfied by oath or otherwise that such notice has been given, he may proceed to examine the person offered as witness, notwithstanding the party served with notice of examination does not appear. And the examination taken under Rule 2(4) and this Rule may be used in evidence at the trial of the cause, subject to any objections offered thereto and allowed by the magistrate.

Procedure.

3. (1) The magistrate shall deliver to a peace officer the summons and so many copies thereof as there may be defendants under his hand and seal, and the peace officer shall without delay serve each defendant with a copy thereof and endorse on the original the time and mode of service and return the same to the magistrate or his clerk who shall thereupon file it.

Summons to be served by peace officer.

(2) Service of any document shall be effected either by delivering the same personally to the person to whom it is directed, or, if he cannot be conveniently found, by leaving it with some adult inmate at his last or his most usual place of abode.

Ordinary service.

(3) Service of a summons on a partnership may be effected by serving the same on any member of the partnership or on any person having the management of the partnership business, or by leaving the same at their principal place of business.

Partnership.

(4) Where by any statute provision is made for service of any writ, bill, petition, summons, or other process upon any corporation or upon any society or any body or number of persons, whether corporate or unincorporate, every writ of summons may be served in the manner so provided, or, when no such provision is made, upon the head office, treasurer, secretary, manager, or agent of such corporation or society.

Statutory provisions e.g. companies.

Infants. (5) Service of a summons on an infant may be effected by serving the same on the person under whose care or in whose custody such infant is found.

Summons served out of the jurisdiction. (6) Where a summons is to be served out of the jurisdiction of The Bahamas the magistrate may apply to a judge in writing for directions as to the manner in which such summons shall be served.

Proof of service. (7) Proof of service of a summons or subpoena may be given by affidavit endorsed thereon and sworn before a magistrate or justice of the peace.

Service out of the district. 4. (1) Where it is necessary to serve any document out of the district of the magistrate issuing the same, such document shall be forwarded or delivered to the magistrate of the district in which it is to be served, who shall forthwith cause the same to be served by the peace officer nearest to the abode of the defendant, and upon such service being effected, to be shown by an affidavit of the peace officer serving the same, the said magistrate shall forward the original document together with the affidavit of service to the magistrate by whom such document was issued.

Consent judgment out of district. (2) If after service of a summons on a defendant residing in a district other than that in which the summons is issued the defendant desires to consent that judgment be entered against him, he may appear before a magistrate in such other district and the magistrate shall cause the summons to be endorsed with such consent and signed by the defendant and the magistrate, who shall then return it to the court of origin. Whereupon judgment may be entered for the plaintiff.

Summonses for witnesses and of production of documents. 5. The magistrate on application may issue summonses for the attendance of witnesses, and may in such summons direct the production of any book or document which is shown to him to be material to the issue, and which is in the possession or control of the person to be so summoned.

Conduct money. *5 of 1987, s. 2.* 6. It shall be in the discretion of the magistrate to order that any witnesses summoned to attend shall be entitled to receive a sum not exceeding twenty cents as conduct money for such attendance whether the witness actually be called to give evidence or not.

## PART II THE HEARING

Procedure. 7. If upon the day of hearing mentioned in the summons either party fails to appear, the magistrate may strike out the case or adjourn the hearing to some convenient date. If the plaintiff alone appears and satisfactory proof on oath of the service of the summons on the defendant is given, then the magistrate may proceed to hear the evidence of the plaintiff in the absence of the defendant and give judgment accordingly.



- 8.** If any defence or counterclaim is raised at the hearing, to answer which, in the opinion of the magistrate, the plaintiff requires time for obtaining further evidence, he shall adjourn the hearing to a convenient day. Adjournments to meet counter-claim or set-off.
- 9.** Except where admissions are made, the magistrate shall require proof of the facts of the case before giving his decision, and he shall hear and determine the case according to the rules of law and equity prevailing in the Supreme Court. Judgment according to law and equity.
- 10.** Where the magistrate finds that the amount due on set-off or counterclaim exceeds the amount due to the plaintiff, he may give judgment for the balance due to the defendant. And where there are cross actions which can conveniently be heard together, the magistrate may consolidate them and give judgment for the party to whom the larger amount is due. Judgment for defendant for balance.  
Cross action.

### PART III EXECUTION

- 11.** The magistrate may order any amount for which he gives judgment to be paid by instalments and shall only issue execution accordingly. But on the defendant failing to pay any instalment, he may issue execution for any balance due either of an instalment or of the judgment debt. Judgment debts payable by instalments.
- 12.** Where it is shown to a magistrate on oath that a debt is owing by a third party to a judgment debtor, the magistrate may cause an order to be served on such third party (called the garnishee) attaching such debt in his hands for the satisfaction of the judgment debt, or any part thereof remaining unpaid, and requiring him to appear on a certain day and show cause why he should not pay to the judgment creditor the debt or part of the debt due to the judgment debtor. Garnishee order.
- 13.** If the garnishee does not forthwith pay to the judgment creditor such debt or part of such debt as aforesaid, or if he appears and fails to show cause to the satisfaction of the magistrate, or if he fails either to pay or to appear, the magistrate may make such order as the justice of the case may require, and may issue execution against the garnishee for the enforcing of such order. Execution against garnishee.
- 14.** The order to show cause shall bind the debt in the hands of the garnishee until it is obeyed or discharged. And payment by him to the judgment creditor shall operate as a valid payment to the judgment creditor. Order binds debt and payment discharges garnishee's liability.
- 15.** Where a judgment debtor has obtained a judgment order for the payment of money against some other person and the sum due under that judgment or order is paid into court for the use of the judgment debtor, a judgment creditor of the judgment debtor may, upon giving two days notice to the judgment debtor and to the court, apply to the magistrate to order such sum to be paid to him. Charging order.

Procedure on  
charging order.

**16.** On the receipt of such notice, the court shall retain the money until after the application has been heard, and the magistrate on hearing the application, may make such order as to the money paid into court and as to costs, as he may think just. A memorandum shall be made in the books of the court relating to the judgment or order obtained by the judgment debtor, the judgment or order made against him and of the manner in which such money is ordered to be applied.

Writ of  
execution.

**17.** Every writ of execution shall be under the hand and seal of the magistrate, and shall be directed to a peace officer, commanding him to levy the amount mentioned in the writ of the goods of the person against whom it is issued. A writ of execution, if unexecuted, shall remain in force for one year only from its issue.

Backing in other  
district.

**18.** If no goods are found in the district, the magistrate may send the writ to the magistrate of any other district in which goods of the person against whom it is issued are likely to be found. And such last mentioned magistrate shall endorse the same with his name and the name of a peace officer in his district, and shall cause the writ to be executed as though it had been originally issued by him.

Seizure and sale.

**19.** A peace officer receiving a writ for execution shall, without delay, seize such of the goods of the person against whom the writ is issued, as may be lawfully taken in execution, and which are in the district of the magistrate issuing or endorsing the writ (as the case may be), and after five clear days shall sell by auction so much of the same as is sufficient to satisfy the amount mentioned in the writ and the cost of execution, and shall forthwith pay the amount realised to the magistrate delivering to him the writ.

Application of  
proceeds.

**20.** The magistrate shall forthwith apply such amount in paying the costs of the execution and in satisfying the plaintiff's claim, and if there is any balance shall pay the same to the person against who the writ is issued.

When writ is  
backed.

**21.** In the case of a magistrate who has endorsed a writ, such magistrate shall pay the costs of the execution, and forward to the magistrate issuing the writ the amount mentioned in the writ, and shall pay the balance, if any, to the person against whom the writ was issued, and the magistrate issuing the writ, on receiving the amount forwarded to him, after satisfying any costs incurred in the execution of the writ, shall pay the same to the plaintiff.

Execution on  
land by Supreme  
Court.

**22.** Where no goods can be found sufficient to satisfy the judgment and costs incident to the enforcing thereof the plaintiff may obtain a copy of the judgment from the magistrate, endorsed by him with the date of the writ of execution and statement as to the return made thereto, and may cause the same to be filed in the Supreme Court, and thereupon all proceedings may be taken in the Supreme Court for the realising of any land of the person against whom the writ is issued as though the judgment had been obtained in the Supreme Court on its summary side.

**23.** Where any claim is made within five days in respect of any goods seized under a writ of execution by any person other than the person against whom the writ is issued, the peace officer shall not proceed to sell the goods (unless the goods are perishable and the magistrate gives a special order in that behalf) but shall report the matter to the magistrate who has delivered to him the writ, and the magistrate shall thereupon summon the claimant to appear before him on a certain day to prove his claim, and shall give notice to the execution creditor thereof, and at the hearing shall either dismiss the claim or order the peace officer to withdraw or make such other order as the justice of the case may require.

Interpleader.

**24.** The magistrate may examine on oath any judgment debtor for the discovery of his property generally and also a garnishee as to any debt due to the judgment debtor, and also any witnesses who can give material evidence in either case, and may summon any such person as aforesaid to attend for examination in that behalf on a convenient day.

Discovery of debtors assets.

**25.** No order for the imprisonment of a judgment debtor shall operate as an extinguishment of the debt or grounds of claim of any plaintiff, or deprive any person of the right to obtain a writ of execution for the satisfaction of the debt.

Imprisonment not discharge of judgment debt.

**26.** Proof of the means of a person making default in the payment of a judgment debt may be given in such manner as the magistrate thinks just and such person and any witnesses may be summoned and examined on oath as other witnesses may be summoned and examined.

Proof of means on judgment summons.

**27.** Where goods have been distrained for rent or otherwise, any person claiming to have the same replevied shall give security approved by a magistrate that he will commence an action of replevin within one month, and prosecute the same with effect and without delay, and make a return of the goods, if a return be adjudged, in such an amount as will cover the rent or damage in respect of which the distress was made, and the probable costs of the action.

Replevin.

**28.** The magistrate shall thereupon issue a warrant to the person in whose custody are the goods distrained directing him to restore the same to the claimant.

Writ of replevin.

#### PART IV LANDLORD AND TENANT PROCEEDINGS

**29.** (1) A summons may issue for the recovery of possession of land where the claim is by a landlord against a tenant whose term has expired or has been duly determined by notice to quit, or which has become liable to forfeiture for non-payment of rent. Such a summons may include a claim for mesne profits, arrears of rent and damages for breach of any contract under which the land is held, or for any wrong or injury to the premises.

Recovery of possession.

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(2) In any such action service of the summons shall be personal, but if the defendant cannot be found, it shall be effected by posting the summons on some conspicuous part of the premises which are the subject matter of dispute.

(3) A person not named as a defendant in a summons in any such action may, by leave of the magistrate, appear and defend upon showing that he is in possession of the land either by himself or by his tenant and shall in all subsequent proceedings be named as a party to the action.

(4) If the defendant does not appear or if no defence is raised, or upon a decision in favour of the plaintiff, the magistrate may enter judgment that the plaintiff shall recover possession of the land, and that the defendant deliver up possession thereof.

(5) Where the summons in any such action has been endorsed with a claim for mesne profits, arrears of rent, or damages for breach of contract, the magistrate may enter judgment for possession of the land and proceed to hear and determine the claim for mesne profits, arrears of rent, or damage, as the case may be.

(6) Recovery of possession of land may be enforced by writ of possession in the form of the Schedule to these rules.

(Note. A plaintiff having a judgment for possession of land may, at his own risk, enter without taking out a writ of possession if he can do so without force.)

(7) The foregoing rules do not apply to cases coming within the provisions of the Small Tenements Act (Ch. 160).

## **PART V GENERAL**

Motions.

**30.** When any party requires any order to be made by a magistrate he may apply to the magistrate by motion, and if the motion is one of which the magistrate is of opinion that the adverse party should have notice, he shall adjourn the case and cause a notice of the motion and of the day on which the motion be heard (not being less than a four days' notice) to be served on the adverse party, and may then proceed as in the case of a summons.

Appeals.

**31.** On an appeal from a decision of a magistrate in either his criminal or civil jurisdiction he shall cause a copy of the proceedings, which shall include the evidence, to be made and paged and shall forward this copy together with a precis of the documents or exhibits, if any, concerned to the Registrar of the Supreme Court or the circuit justice as the case may be; he shall also attach to the copy referred to above a list of the witnesses examined showing the pages on which their evidence appears.

32. Where a circuit justice exercises his original jurisdiction with regard to questions of title to land under the principal Act he shall have all the powers that may be attributed to the Supreme Court in the enforcement of any order made.

Circuit justice and title to land.

33. All previous rules heretofore made under the principal Act are hereby repealed.

Repeal.

**SCHEDULE TO MAGISTRATES’ RULES OF COURT**

**FORM OF WRIT OF POSSESSION.**

Rule 29(6).

**BAHAMA ISLANDS.**

Elizabeth the Second by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

To any lawful constable of .....

Greeting:

WHEREAS by a judgment of this Court ..... given on the ..... day of ....., A.D. 19, was ordered to deliver to possession, of all that .....

*(describe the premises.)*

THEREFORE you are commanded to enter the same, and (without delay, or within ..... days) cause the said ..... to have possession of the said land and premises with the appurtenances. And in what manner you have executed the Writ make appear to this Court immediately after execution thereof. And have there then this writ.

Witness my hand and the seal of the Court at ..... this ..... day of ..... 19

.....  
Magistrate.

**SECOND SCHEDULE (Sections 112, 117, 152(2), 202)<sup>3</sup>**

**FEES IN CIVIL PROCEEDINGS**

*5 of 1987, s 2*

*Court Fees*

Summons and copy .....	20c.
Summons for witness .....	20c.
Hearing fee .....	20c.
Writ of execution.....	30c.
For taking any affidavit or declaration not intended to be used on any criminal charge and attesting the same.....	20c.

*34 of 1904, s 14*

*Officers' Fees.*

Service of a summons or other document within a mile of the Magistrate's Court.....	15c.
Extra mileage per mile .....	7c.
Seizure of property under writ of execution.....	30c.

For poundage on the net proceeds of sales under execution, five per centum, and upon the amount of all executions where levies are actually made and where the matter shall afterwards be compromised without sale, one half of the aforesaid poundage.

<sup>3</sup> Note: The fees set out in this Schedule were expressed to be subject to an increase of twenty five per centum under the Magistrates (Increase of Court Fees) (Amendment) Rules of Court 1953 (see O.G. 18th May 1953 Notice No. 121 at p. 142).