

CRIMINAL PROCEDURE CODE, 1960 (ACT 30)

(Consolidated up to 1999. Adopted by the Attorney-General's Office)

As amended by

CRIMINAL PROCEDURE CODE (AMENDMENT) ACT, 2002 (ACT 633).

JUVENILE JUSTICE ACT, 2003 (ACT 653).

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA ENTITLED

THE CRIMINAL PROCEDURE CODE, 1960, (ACT 30).

COMPARATIVE TABLE

Criminal Procedure Code (Cap. 10)—Criminal Procedure Code (Act 30).

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\*Issued incorporating amendments made by Acts 102, 116, 177, 191, 254, 261, 272, 333, 350 and 372, N.L.C.D. 276 & 406, N.R.C.D. 121, 235, 309, 324, S.M.C.D. 56 & 82, P.N.D.C.L. 206.

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## ARRANGEMENT OF SECTIONS

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THE THIRTIETH  
ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA  
ENTITLED

THE CRIMINAL PROCEDURE CODE, 1960, (ACT 30)

AN ACT to consolidate and amend enactments providing for the procedure to be followed in criminal cases.

DATE OF ASSENT: 12th January, 1961

BE IT ENACTED by the President and the National Assembly in this present Parliament assembled as follows:

PART I—GENERAL PROVISIONS

Procedure

Section 1—Procedure for Offences.

All offences under the Criminal Code and, subject to the provisions of any enactment, all other offences shall be enquired into, tried and otherwise dealt with according to this Code.

Section 2— Mode of Trial.

(1) An offence shall be tried summarily if—

(a) the enactment creating the offence provides that it is to be punishable on summary conviction, and provides for no other mode of trial; or

(b) the enactment creating the offence makes no provision for mode of trial and the maximum penalty for the offence on first conviction is a term of imprisonment not exceeding six months, whether with or without a fine.

(2) An offence shall be tried on indictment if—

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

(b) the enactment creating the offence provides that it shall be triable on indictment, and provides for no other mode of trial.

(3) Every other offence shall be triable on indictment or summarily.

(4) Subject to any limitations on the jurisdiction of the Court—

(a) a trial on indictment shall be by the High Court or a Circuit Court;

(b) a summary trial shall be by a court of summary jurisdiction, or by the High Court or a Circuit Court.

Arrest Generally

Section 3—Arrest how Made.

In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Section 4—Search of place entered by person sought to be Arrested.

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

(2) If entry to the place cannot be effected under subsection (1)—

(a) any person acting under a warrant, or

(b) a police officer, in a case in which a warrant may issue, but cannot be obtained without affording an opportunity for the escape of the person to be arrested, may enter the place and search therein for the person to be arrested, and, in order to effect entrance into that place, break open any outer or inner door or window of any house or place, whether that of the person to be arrested, or of any other person or otherwise effect entry, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

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

Any police officer or other person authorised to make an arrest may break out of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

Section 6—No unnecessary restraint.

The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Section 7—Notification of Substance of Warrant.

Except when the person arrested is in the actual course of the commission of a crime or is pursued immediately after escape from lawful custody, the police officer or other person making the arrest shall inform the person arrested of the cause of the arrest, and, if the police officer or other person is acting under the authority of a warrant, shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Section 8—Search of Arrested person.

(1) Whenever a person is arrested by a police officer or a private person, the police officer making the arrest or to whom the private person, makes over the person arrested may search such person, and place in safe custody all articles other than necessary wearing apparel found upon him.

(2) Whenever the person arrested can be legally admitted to bail and bail is furnished, he shall not be searched unless there are reasonable grounds for believing that he has about his person, any—

(a) stolen articles; or

(b) instrument of violence; or

(c) tools connected with the kind of offence which he is alleged to have committed; or

(d) other articles which may furnish evidence against him in regard to the offence which he is alleged to have committed.

(3) All searches shall be made with strict decency and whenever it is necessary to cause a woman to be searched, the search shall be made by another woman.

(4) The right to search an arrested person does not include the right to examine his private person.

(5) Notwithstanding any other provision of this section, a police officer or other person making an arrest may in any case take from the person arrested any offensive weapons which he has about his person.

Section 9—Arrested persons to be taken at once to Police Station.

Any person who is arrested, whether with or without a warrant, shall be taken with all reasonable despatch to a police station, or other place for the reception of arrested persons, and shall without delay be informed of the charge against him. Any such person while in custody still be given reasonable facilities for obtaining legal advice, taking steps to furnish bail, and otherwise making arrangements for his defence or release.

Arrest without Warrant

Section 10—Arrest by Police Officer without Warrant.

- (1) A police officer may arrest without warrant any person who—
- (a) commits an offence in his presence;
  - (b) obstructs a police officer in the execution of his duty;
  - (c) has escaped or attempts to escape from lawful custody;
  - (d) has in his possession any implement adapted or intended for use in unlawfully entering any building, and who gives no reasonable excuse for his possession of it; or
  - (e) has in his possession anything which may reasonably be suspected to be stolen property.
- (2) A police officer may arrest without warrant any person he suspects upon reasonable grounds—
- (a) of having committed an offence;
  - (b) of being about to commit an offence, where there is no other practicable way of preventing the commission of the offence;
  - (c) of being about to commit an offence, where he finds such person in any highway, yard, building or other place during the night;
  - (d) of being a person for whom a warrant of arrest has been issued by a court;
  - (e) of being a deserter from the Armed Forces; or
  - (f) of having been concerned in any act committed outside Ghana which, if committed in Ghana, would have been punishable as an offence, and for which he is, under any enactment, liable to be arrested and detained in Ghana.

#### Section 11—Refusal to give Name and Residence.

- (1) When any person, other than a person liable to be arrested without an order or warrant under section 10 of this Code, who has been accused of committing an offence refuses on demand of a police officer to give his name and residence, or gives a name or residence which the officer has reason to believe to be false, he may be arrested by the officer in order that his name or residence may be ascertained.
- (2) When his true name and residence have been ascertained he shall be released on his executing a bond, with or without sureties, to appear before a Court if so required.
- (3) If he is not resident in Ghana the bond shall be secured by surety or sureties resident in Ghana.
- (4) Should the true name and residence of that person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute the bond, or, if so required to furnish sufficient sureties, he shall forthwith be brought before the nearest Court having jurisdiction.

#### Section 12—Arrest by private person, without Warrant.

- (1) A private person may arrest without warrant any person who in his presence commits—
- (a) any offence involving the use of force or violence;
  - (b) any offence whereby bodily harm is caused to any person;
  - (c) any offence in the nature of stealing or fraud;
  - (d) any offence involving injury to public property; or
  - (e) any offence involving injury to property owned by, or in the lawful care or custody of, that private person.
- (2) A private person may arrest without warrant any person whom he reasonably suspects of having committed any offence mentioned in subsection (1) provided that an offence of that nature have been committed.

#### Section 13—Repeal.

Repealed by N.R.C.D. 235, s.3

#### Section 14—Disposal of person Arrested by private person.

- (1) Any private person arresting any other person without a warrant shall without unnecessary delay make over the person so arrested to a police officer or, in the absence of a police officer, shall take him to the nearest police station.
- (2) If there is reason to believe that that person comes under section 10, a police officer shall re-arrest him.
- (3) If there is reason to believe that he has committed a felony or misdemeanour, and he refuses on the demand of a police officer give his name and residence, or gives a name or residence which the



officer has reason to believe to be false, he shall be dealt with under section 11. If there is no sufficient reason to believe that he committed any offence he shall be at once released.

**Section 15—Holding in Custody of persons Arrested without Warrant.**

(1) A person taken into custody without a warrant in connection with any offence shall be released from custody not later than forty-eight hours after his arrest unless he is earlier brought before a court of competent jurisdiction. [As amended by the Criminal Procedure Code (Amendment) Act, 2002 (Act 633), s. (2) (a)].

(2) A person so taken into custody may at any time whether before or after the expiration of the said period be required to enter into a bond with or without sureties for a reasonable amount to appear before such court or at such police station or place and at such time as may be stated in the bond.

(3) Any such bond may be enforced as if it were a bond executed by order of a court and conditioned for the appearance of the said person before a court.

(4) [Repealed by the Criminal Procedure Code (Amendment) Act, 2002 (Act 633), s. (2) (b)].

**Section 16—Police to Report Apprehensions.**

Officers in charge of police station, shall report monthly to the nearest District Magistrate the cases of all persons arrested without warrant within the limits of their respective stations and not subsequently charged with an offence, whether those persons have been admitted to bail or not.

**Section 17—Offence Committed in District Magistrate's presence.**

When any offence is committed in the presence of a District Magistrate within the local limits of his jurisdiction he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

**Section 18—Arrest by District Magistrate.**

Within the local limits of his jurisdiction any District Magistrate may arrest or direct the arrest in his presence of any person whose arrest upon a warrant he could have lawfully ordered if the facts known to him at the time of making or directing the arrest had been stated before him on oath by some other person.

**Escape and Retaking**

**Section 19—Recapture of person escaping.**

If a person in lawful custody escapes or is rescued, the person from whose custody he escapes or is rescued may immediately pursue and arrest him in any place in Ghana.

**Section 20—Section 4 and 5 to apply to Arrests under Section 19.**

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

**Section 21—Assistance to District Magistrate or Police Officer.**

Every person is bound to assist a District Magistrate or police reasonably demanding his aid—

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

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

**Security for Keeping the Peace and for Good Behaviour**

**Section 22—Power of District Magistrate to require Execution of Bond for keeping the peace.**

(1) Whenever a District Magistrate is informed on oath that any person is likely to commit a breach of the peace or disturb the public peace, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public peace, the Magistrate may require him to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period as the Magistrate thinks fit.

(2) Proceedings shall not be taken under this section unless either the person informed against, or the place where the breach of the peace or disturbance is apprehended is within the local limits of the Magistrate's jurisdiction.

**Section 23—Security for good behaviour for suspected persons.**

Whenever a District Magistrate is informed on oath that any person is taking precautions to conceal his presence within the local limits of the Magistrate's Jurisdiction, and that there is reason to

believe that the person is taking such precautions with a view to committing any offence, the Magistrate may, require the person to show cause why he should not be ordered to execute a bond, with for his good behaviour for such period as the Magistrate thinks fit.

Section 24—Order to be made.

When a District Magistrate acting under section 22 or 23, thinks it necessary to require any person to show cause under the section, he shall make an order in writing setting forth—

- (a) the substance of the information received;
- (b) the amount of the bond to be executed;
- (c) whether the bond is to be for keeping the peace or for good behaviour;
- (d) the term for which it is to be in force; and
- (e) the number, character, and class of sureties, if any required.

Section 25—Procedure in respect of person present in Court.

If the person in respect of whom the order is made is present Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

Section 26—Summons or Warrant in Case of person not so present.

(1) If that person is not present in Court, the Magistrate shall issue a summons requiring, him to appear, or, if he is in custody, a warrant directing the officer in whose custody he is to bring him before the Court.

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

Section 27—Copy of Order under Section 24 to Accompany Summons or Warrant.

Every summons or warrant issued under section 26 shall be accompanied by a copy of the order made under section 24, and the copy shall be delivered by the officer serving or executing the summons or warrant to the person served with or arrested under it.

Section 28—Power to Dispense with Personal Attendance.

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

Section 29—Enquiry as to Truth of Information.

(1) When an order under section 24 has been read or explained under section 25 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with or in execution of a summons or warrant issued under section 26, the Magistrate shall proceed to enquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

(2) The enquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials before District Courts except that no charge need be framed.

(3) Pending the completion of the enquiry under subsection (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public peace or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 24 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the enquiry, and may detain him in custody until the bond is executed or, in default of execution, until the enquiry is concluded.

(4) The conditions of the bond to be executed under subsection (3) whether as to the amount thereof or as to the provisions of sureties for the number thereof or the pecuniary extent of their ability or otherwise shall not be more onerous than specified in the order under section 24.

(5) No persons shall be remanded in custody under the powers conferred by this section for a period exceeding fifteen days at a time.

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

#### Section 30—Order to Give Security.

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

(2) No person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 24.

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

(4) When the person in respect of whom the enquiry is made is a juvenile, the bond shall be executed only by his sureties. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (1)]

(5) Any person ordered to give security for good behaviour or keeping the peace under this section may appeal against the order and Part VIII (relating to appeals) shall apply to the appeal.

#### Section 31—Discharge of Person Informed Against.

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

#### Proceedings in all Cases Subsequent to Furnish Security.

#### Section 32—Commencement of Period of which Security is Required.

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

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

#### Section 33—Contents of Bond.

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

#### Section 34—Power to Reject Sureties.

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

#### Section 35—Procedure on Failure of Person to give Security.

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

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

(3) The High Court or Circuit Court, after examining the proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may make such order in the case as it thinks fit.

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

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

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

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

**Section 36—Power to Release Persons Imprisoned for Failure to give Security.**

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

**Section 37—Power of Court to Cancel Bond.**

The High Court may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace for good behaviour executed under any of the preceding sections.

**Section 38—Discharge of Sureties.**

(1) Any surety for the peaceful conduct or good behaviour of another person may at any time apply to a District Magistrate to cancel any bond executed under any of the preceding sections within the local limits of his jurisdiction.

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

(3) When the person appears or is brought before the Magistrate, the Magistrate shall cancel the bond and shall order the person to give, for the unexpired portion of the term of the bond, fresh security of the same description as the original security. Every such order shall for the purposes of sections 33 to 37 be deemed to be an order under section 30.

**Prevention and Investigation by Police**

**Section 39—Police to Prevent Offences.**

Every police officer may interpose for the purpose of preventing, and shall to the best of his ability prevent the commission of any offence.

**Section 40—Information of Design to Commit Offences.**

Every police officer receiving information of a design to commit any offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

**PART II—PROVISIONS RELATING TO CRIMINAL PROCEEDINGS**

**Place of Enquiry or Trial**

**Section 41—General Authority of Courts to Bring Accused Persons Before Them.**

Every District Court has authority to cause to be brought before it any person who is within the local limits of its jurisdiction and is charged with an offence committed within Ghana or according to law may be dealt with as if it has been committed within Ghana and to deal with the accused according to its jurisdiction.

**Section 42—Accused Person to be Remitted in Certain Cases to another Court.**

(1) A District Court (in this and in section 43 referred to as the Remitting Court) before which any person who is within the local limits of its jurisdiction and is charged with having committed an offence within the local limits of the jurisdiction of another District Court is brought shall, unless authorised to proceed in the case, send him in custody to the District Court within the local limits of whose jurisdiction the offence was committed, or require him to give security for his surrender to such last-mentioned District Court, there to answer the charge and to be dealt with according to law.

(2) If the offence was committed in an area within which one or more Courts have concurrent jurisdiction, the Remitting Court shall, unless authorised to proceed in the case, send the person charged in custody to such one of those Courts as can most conveniently deal with the case, or

require him to give security for his surrender to such last-mentioned Court there to answer the charge and to be dealt with according to law.

(3) The Remitting Court shall send to the Court to which the person charged is remitted for trial an authenticated copy of the information, summons, warrant, and all other processes or documents in its possession, relative to such person.

#### Section 43—Removal under Warrant.

Where any person is to be sent in custody in pursuance of section 42 a warrant shall be issued by the Remitting Court, and that warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him and deliver him up to the District Court within whose jurisdiction the crime or offence was committed, or may be enquired into or tried; the person to whom the warrant is directed shall execute it according to its tenor without any delay.

#### Section 44—Bringing Case before High Court or Circuit Court, Etc.

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

(2) Subject to the provisions of subsection (1) of this section, the High Court or a Circuit Court shall have power to issue any summons or warrant for the commencement of any criminal case (whether the case is to be tried before the High Court, a Circuit Court or any other court of competent jurisdiction) and, accordingly subject as aforesaid, sections 60 to 87 of this code shall, with the necessary modifications, apply in relation to the High Court and a Circuit Court in the same manner as they apply to the District Court; so however that a criminal case may be heard and determined by the High Court or a Circuit Court notwithstanding that the summons or warrant for the commencement thereof was issued by a District Court.

#### Section 45—Determination of Place of Investigation and Trial.

Subject to section 44 and to the powers of transfer conferred by any other enactment, the place for the investigation and trial of every offence shall be determined according to the following rules—  
General Rule.

(a) Every offence shall ordinarily be enquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Accused Tried where Act Done, or where Consequence Ensues.

(b) When a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done and of any consequence which has ensued, the offence may be enquired into or tried in any Court within the local limits of whose jurisdiction any such thing has been done or omitted to be done, or any such consequence has ensued.

When Offence Constituted by Relation to another Offence

(c) When an act in an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer capable of committing an offence, a charge of the first-mentioned offence may be enquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

When Place Uncertain or Offence Distributed.

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

(i) when it is uncertain in which of several local areas an offence was committed; or

(ii) when an offence is committed partly in one local area and partly in another; or

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

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

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

When Offences Joined.

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

#### When Accused Joined

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

#### Section 46—Offences at Sea or out of Ghana

When a person is accused of the commission of an offence at sea or elsewhere out of Ghana which according to the law may be dealt with in Ghana, the offence may, subject to the provisions of section 118, be enquired of and tried at any place in Ghana to which the accused person is first brought or to which he may be taken thereafter.

46A. [Repealed by Act 372, 3rd schedule.]

#### Section 47—Offence Committed on a Journey.

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

#### Section 48—Court to Decide in Case of Doubt.

Whenever any doubt arises as to the Court in which any offence should be enquired into or tried, any Court entertaining such doubt may, in its discretion report the circumstances to the High Court and the High Court shall decide in which Court the offence shall be enquired into or tried. Any such decision shall be final and conclusive except that it shall be opened to an accused person to show that no Court has jurisdiction in the case.

#### Section 49—Cause Commenced in Wrong Place.

In case any cause is commenced in any other place than that in which it ought to have been commenced, the same may notwithstanding be tried therein, unless the defendant shall object thereto at or before the time he is called upon to plead or to state his answer in such cause.

#### Information as to Offences Against the State

##### Section 50—Power to Require Information.

(1) For the purpose of detecting the commission of offences under Chapter 1 of Part IV of the Criminal Code (which relates to offences against the safety of the State) or any activity prejudicial to—

- (a) the defence of Ghana
- (b) the relations of Ghana with other countries, or
- (c) the security of the State,

the Attorney-General may give to any person in Ghana, or any individual outside Ghana who is a citizen of Ghana or ordinarily resident in Ghana, directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to the Attorney-General or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Attorney-General or the person so authorised, as the case may be, may require.

(2) A person required by any such directions to furnish information shall also produce such books, accounts or other documents in his possession or control as may be required for the said purpose by the Attorney-General, or by the person authorised to require information, as the case may be.

(3) The Attorney-General or other person to whom any such documents are produced may cause copies to be taken of those documents or any part thereof.

##### Section 51—Saving for Privileged Communications.

Nothing in this section 50 shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communications made to him in that capacity.

#### Section 52—Restrictions on Use of Information Obtained.

Answers given in compliance with directions under section 50 and copies of documents taken under that section, shall not be admissible in evidence in any legal proceedings other than proceedings for an offences under Chapter 1 of Part IV of the Criminal Code or under section 53 of this Code or proceedings for perjury committed in the course of proceedings for such an offence.

#### Section 53—Punishment for Failure to Give Information.

A person who fails to comply with any directions under section 50, whether as respects the furnishing of information or the production of documents, or who in furnishing any information in compliance with directions under section 50 makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular shall be guilty of a misdemeanour.

#### Control of Attorney-General over Criminal Proceedings

##### Section 54—Nolle Prosequi.

In any criminal case, and at any stage thereof before verdict or judgment, and in the case of preliminary proceedings before the District Court, whether the accused has or has not been committed for trial, the Attorney-General may enter a nolle prosequi, either by stating in Court or by informing the Court in writing that the State intends that the Proceedings should not continue, and thereupon the accused shall be at once discharged in respect of the charge for which the nolle prosequi is entered, and if he has been committed to prison shall be released, or if on bail his recognizances shall be discharged; but the discharge of the accused shall not operate as a bar to any subsequent proceedings against him on account of the same facts. If the accused is not before the Court when the nolle prosequi is entered the registrar or clerk of the Court shall forthwith cause notice in writing of the entry of the nolle prosequi to be given to the keeper of the prison in which the accused may be detained and also if the accused has been committed for trial, to the District Court by which he was so committed. The District Court shall forthwith cause a similar notice in writing to be given to any witness bound over to prosecute and to their sureties, if any, and also to the accused and his sureties in case he has been admitted to bail.

##### Section 55—Attorney-General may Delegate Certain Powers as Nolle Prosequi.

(1) The Attorney-General may order in writing that the powers expressly vested in him by section 54 of this Code be vested for the time being in any person appointed to sign indictments or to represent the State at trials on indictment at any place; and the powers may be exercised by any such person accordingly.

(2) The Attorney-General may in writing revoke any order made by him under this section.

#### Appointment of Public Prosecutors and Conduct of Prosecutions

##### Section 56—Power to Appoint and Duties of Public Prosecutors.

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

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

(3) The Attorney-General may give express directions in writing to the public prosecutor. [As substituted by the Criminal Procedure Code (Amendment) Act, 2002 (Act 633), s. (3)].

##### Section 57—Power of Public Prosecutor to Intervene in Private Prosecutions.

[Repealed by the Criminal Procedure Code (Amendment) Act, 2002 (Act 633), s. (4)].

##### Section 58—Prosecutions on Indictment to be Brought Only by Attorney-General.

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

##### Section 59—Withdrawal from Prosecution in Trials and Preliminary Investigations before District Courts.

(1) In any trial or preliminary proceedings before a District Court any prosecutor, with the consent of the Court or on the instructions of the Attorney-General at any time before judgment is

pronounced or an order of committal is made, may withdraw from the prosecution of any person either generally or in respect of any one or more offences with which he is charged; and upon such withdrawal—

(a) if it is made in the course of any enquiry under Part IV the accused shall be discharged in respect of the offence or offences; or

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

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

(ii) after the case for the prosecution has been closed, the accused shall be acquitted in respect of the offence or offences.

(2) [Repealed by the Criminal Procedure Code (Amendment) Act, 2002 (Act 633), s. (5)].

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

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

#### Institution of Proceedings

##### Section 60—Method of Instituting Criminal Proceedings.

(1) Criminal proceedings may be instituted before a District Court in either of the following ways—

(a) by making a complaint and applying for the issue of either a warrant or a summons in the manner hereinafter mentioned; or

(b) by bringing a person arrested without a warrant before the court upon a charge contained in a charge sheet specifying the name and occupation of the person charged, the charge against him, and the time when and the place where the offence is alleged to have been committed. The charge sheet shall be signed by the police officer or public prosecutor in charge of the case.

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

(3) A public officer in the exercise of his duties may institute proceedings under this section in the name on behalf of his Minister.

(4) Nothing in this section shall require a Minister to sign a complaint or charge sheet in proceedings instituted in his name and on his behalf under this section.

##### Section 61—Making a Complaint.

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

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

(3) Upon receiving any such complaint the Magistrate may in his discretion refuse to issue process, recording his reasons for such refusal, or may issue either a summons or warrant as he thinks fit, to compel the attendance of the accused person before the District Court which such Magistrate is empowered to hold, or if the offence appears to be one which he is not empowered to try or enquire into, before some other competent Court having jurisdiction in the same area.

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

#### Issue of Summons

##### Section 62—Form and Contents of Summons.

(1) Every summons issued by a District Court under this Code shall be in writing, in duplicate, signed by the presiding officer of the Court or by such other officer as rules of Court or the Chief Justice may direct.



(2) Every summons shall be directed to the person summoned and shall require him to appear at a time or place to be therein appointed before a District Court having jurisdiction to enquire into and deal with the complaint or charge. It shall state shortly the offence with which the person against whom it is issued is charged.

Section 63—Service of Summons.

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

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

Section 64—Service when Person Summoned Cannot be Found.

Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some person apparently over the age of eighteen at his usual or last known place of abode or business. [As amended by the Criminal Procedure Code (Amendment) Act, 2002 (Act 633), s. (6)].

Section 65—Procedure when Service Cannot be Effected as before Provided.

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

Section 66—Service on Civil Servant.

Where the person summoned is in the civil service, the District Court issuing the summons shall ordinarily send it in duplicate to the head of the department in which he is employed, and such head shall thereupon cause the summons to be served in the manner provided by section 63 and shall return it to the Court under his signature with the endorsement required by that section. Such signature shall be evidence of the service.

Section 67—Service on Company.

Service of a summons on a body corporate may be effected by serving it on the secretary, local manager, or either principal officer of the corporation, or by registered letter addressed to the chief officer of the corporation in Ghana at its registered office. In the latter case service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Section 68—Service Outside Local Limits of Jurisdiction.

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

Section 69—Proof of Service when Serving Officer not Present.

(1) Where the officer who has served a summons is not present at the hearing of the case, and in any case, where a summons issued by a District Court has been served outside the local limits of its jurisdiction, an affidavit purporting to be made before a Magistrate that the summons has been served, and a duplicate of the summons purporting to be endorsed in the manner hereinbefore provided by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct until the contrary is proved.

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

Section 70—Power to Dispense with Personal Attendance of Accused.

(1) Whenever a District Magistrate issues a summons in respect of any offence other than a felony, he may if he sees reason to do so, and shall when the offence with which the accused is charged is punishable only by a fine or by imprisonment not exceeding three months (whether with or without a fine), dispense with the personal attendance of the accused, provided that he pleads guilty in writing or appears by an advocate.

(2) The Magistrate enquiring into or trying any case may in his discretion, at any subsequent stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner of hereinafter provided.

(3) If a Magistrate imposes a fine on an accused person whose personal attendance has been dispensed with under this section and the fine is not paid within the time prescribed, the Magistrate may forthwith issue a summons calling upon the accused to show cause why he should not be committed to prison. If the accused person does not attend upon the return of the summons the Magistrate may forthwith issue a warrant and commit him to prison for such term as the Magistrate may then fix.

(4) If, in any case in which under this section the attendance of an accused is dispensed with, previous convictions are alleged against him and are not admitted in writing or through that person's counsel, the Magistrate may adjourn the proceedings and direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

(5) Whenever the attendance of an accused has been so dispensed with and his attendance is subsequently required, the cost of any adjournment for such purposes shall be borne in any event by the accused.

#### Issue of Warrant of Arrest

##### Section 71—Warrant when Issued.

Notwithstanding the issue of a summons a warrant may be issued at any time before or after the time appointed in the summons for the appearance of the accused. No such warrant shall be issued unless a complaint or charge has been made upon oath.

##### Section 72—Summons Disobeyed.

If the accused does not appear at the time and place appointed in and by the summons and his personal attendance has not been dispensed with under section 70, the Court may issue a warrant to apprehend him and cause him to be brought before such Court. No such warrant shall be issued unless a complaint or charge has been made upon oath.

##### Section 73—Form, Contents, and Duration of Warrant of Arrest.

(1) Every warrant of arrest shall be under the hand of the Judge or Magistrate issuing it.

(2) Every warrant shall state shortly the offence with which the person against whom it is issued is charged and shall name or otherwise describe such person, and it shall order the person or persons to whom it is directed to apprehend the person against whom it is issued and bring him before the Court issuing the warrant or before some other Court having jurisdiction in the case, to answer to the charge therein mentioned and to be further dealt with according to law.

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

##### Section 74—Court may Direct Security to be Taken.

(1) Any Court issuing a warrant for the arrest of any person in respect of any offence other than murder or treason, may if it thinks fit by endorsement on the warrant direct that the person named in the warrant, on arrest, be released on his entering into a bond in such amount as may be specified, with or without sureties, for his appearance before the Court at such time as the endorsement shall state.

(2) The endorsement shall specify—

(a) the number of sureties (if any);

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

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

(d) the time at which he is to attend, including an undertaking to appear at such subsequent times as may be directed by the Court.

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

(4) Whenever security is taken under this section the officer who takes the bond shall cause it to be forwarded to the Court before which the person named in the warrant is bound to appear.

**Section 75—Warrants to whom Directed.**

(1) A warrant of arrest may be directed to one or more police officers, or to one police officer and to all other police officers of the area within which the Court has jurisdiction, or generally to all police officers of the area. But any Court issuing a warrant may, if its immediate execution is necessary, and no police officer is immediately available, direct it to any other person, and that person shall execute it.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all or by any one or more of them.

**Section 76—Execution of Warrant Directed to Police Officer.**

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

**Section 77—Person Arrested to be Brought before the Court without Delay.**

The police officer or person executing a warrant of arrest shall (subject to section 74 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by the warrant or the requirements of section 81 to produce such person, and shall return the warrant to the Court with an endorsement thereon showing the time and the place of its execution.

**Section 78—Where Warrant of Arrest May be Executed.**

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

**Section 79—Forwarding of Warrant for Execution Outside Jurisdiction.**

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

(2) The Magistrate to whom the warrant is forwarded shall endorse his name thereon and, if practicable, cause it to be executed in the manner hereinbefore provided within the local limits of his jurisdiction.

**Section 80—Procedure in Case of Warrant Directed to Police Officer for Execution Outside Jurisdiction**

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

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

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

**Section 81—Procedure on Arrest of Person Outside Jurisdiction.**

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

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

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

(4) Nothing in this section shall prevent a police officer from taking security under section 74.

Miscellaneous Provisions Regarding Processes.

Section 82—Summons, Warrant, Etc. on Sunday.

Any summons or warrant may be issued and executed on any day, including a Sunday.

Section 83—Irregularities in Processes.

(1) Any irregularity or defect in the substance or form of a summons or warrant, and any variance between a summons or warrant and the written complaint, or between a summons or warrant and the evidence adduced at any enquiry or trial on the part of the prosecution against an accused whose attendance has been procured by the summons or warrant, shall not affect the validity of any proceedings at or subsequent to the hearing of the case, but if any variance appears to the Court to be such that the accused has been thereby deceived or misled, the Court may, at the request of the accused, adjourn the hearing of the case to some future date and in the meantime remand the accused or admit him to bail in the manner hereinafter mentioned.

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

Section 84—Power to take Bond for Appearance.

Where any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant is present in Court, the officer may require the person to execute a bond, with or without sureties, for his appearance in that Court. When the bond is taken from a person accused on complaint, the taking of the bond shall be deemed to be the issue of process against him upon the complaint.

Section 85—Arrest on Breach of Bond for Appearance.

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

Section 86—Power of Court to Order Prisoner to be Brought before it.

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

(2) The officer so in charge, on receipt of the order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the prison.

Section 87—Provision of this Part Generally Applicable to Summonses and Warrants.

The provisions in this Part relating to a summons and warrant, and their issue, service, and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code or any other enactment.

Search Warrants

Section 88—When Search Warrant may be Issued and Proceedings Thereunder.

(1) A District Magistrate who is satisfied, by evidence upon oath, that there is reasonable ground for believing that there is in any building, vessel, carriage, box, receptacle, or place—

(a) anything upon or in respect of which any offence has been or is suspected to have been committed, for which according to any law for the time being in force, the offender may be arrested without warrant; or

(b) anything which there is reasonable ground for believing will afford evidence as to the commission of any such offence; or

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing an offence against the person for which, according to any law for the time being in force, the offender may be arrested without warrant,

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

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

Section 89—Time when Search Warrant may be Executed.

Every search warrant may be issued and executed on a Sunday and shall be executed between the hours of 6.30 a.m. and 6.30 pm., but the Court may, by the warrant, in its discretion, authorise the police officer or other person to whom it is addressed to execute it at any hour.

Section 90—Persons in Charge of Closed Place to Allow Ingress.

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

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

(3) When any person in or about such building or place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman the provisions of section 8 (3) shall be observed.

Section 91—Detention of Articles Seized.

(1) When any thing is seized under a search warrant and brought before any Magistrate, he may detain or cause it to be detained, taking reasonable care that it is preserved till the conclusion of the case; and if any appeal is made, he may order it further to be detained for the purpose of or pending an appeal. If no appeal is made, the Magistrate shall direct the thing to be restored to the person from whom it was taken, except in the cases hereinafter mentioned, unless he is authorised or required by law to dispose of it otherwise.

(2) If, under any such warrant, there is brought before any Magistrate any forged bank note, bank note paper, or instrument, or anything the possession of which, in the absence of lawful excuse, is an offence according to any law for the time being in force, the Magistrate may direct it to be detained for production in evidence or to be otherwise dealt with as the case may require.

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

Section 92—Provisions Applicable to Search Warrants.

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

Section 93—Search without a Warrant in Certain Cases where Articles are Being Conveyed, Etc.

Whenever a police officer has reasonable cause to believe that any article which has been stolen or otherwise unlawfully obtained, or in respect of which a criminal offence has been, is being, or is about to be committed, is being conveyed, or is concealed or carried on any person in a public place, or is concealed or contained in any package in a public place, for the purpose of being conveyed, then and in any such case, if the police officer considers that the special exigencies of the case so require, he may without a warrant or other written authority apprehend, seize, and search any such person, package, or article, and may thereupon take possession of and detain such article together with the package, if any, containing it, and may also arrest any person conveying, concealing, or carrying the same as aforesaid.

Section 94—Search of Premises without Warrant.

(1) Any police officer not below the rank of Assistant Superintendent of Police, or who being below such rank is authorised in writing so to do by some police officer not below such rank, may enter any house, shop, warehouse, yard, ship, boat, vessel, beach, or other premises which he has

reasonable cause to believe contains any property which has been stolen or dishonestly received and may search for, seize, and secure, any property which he has reasonable cause to believe has been stolen, or dishonestly received in the same manner as if he had a search warrant and the property seized, if any, corresponded to the property described in such search warrant.

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

Section 95—Saving with Respect to Certain Postal Matter.

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

Provisions as to Bail and Recognizances Generally

Section 96—Granting of Bail.

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

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

(b) enters into a bond in the manner hereinafter provided, with or without a surety or sureties, conditioned for his appearance before that court or some other court at the time and place mentioned in the bond.

(2) Notwithstanding anything in subsection (1) of this section or in section 15, but subject to the following provisions of this section, the High Court or a Circuit Court may in any case direct that any person be admitted to bail or that the bail required by a District Court or police officer be reduced.

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

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

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

(a) may not appear to stand trial; or

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

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

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

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

(a) the nature of the accusation;

(b) the nature of the evidence in support of the accusation;

(c) the severity of the punishment which conviction will entail;

(d) whether the defendant, having been released on bail on any previous occasion, has wilfully failed to comply with the conditions of any recognizance entered into by him on that occasion;

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

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

(7) A court shall refuse to grant bail—

(a) in a case of treason, subversion, murder, robbery, hijacking, piracy, rape and defilement or escape from lawful custody; or [As amended by the Criminal Procedure Code (Amendment) Act, 2002 (Act 633), s. (7)].

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

Section 97—General Provisions as to Recognizances.

(1) When, as respects any bond, the amount has been fixed in which the sureties (if any) are to be bound, the bond need not be entered into before the Court, but may, subject to any rules made in pursuance of this Code, be entered into by the parties before any other Court or before any clerk of a Court, or before a Sub-Inspector of Police or other officer of police of equal or superior rank or in charge of any police station, or where any of the parties is in prison, before the Superintendent or other keeper of the prison; and thereupon all the consequences of law shall ensue, and the

provisions of this Code with respect to bonds taken before a Court shall apply, as if the bond had been entered into before a Court.

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

(3) A bond for the appearance of any person before the Court may be conditioned for his appearance at every time and place to which, during the course of the proceedings the hearing may be from time to time adjourned, without prejudice, however to the power of the Court to vary the order at any subsequent hearing.

Section 98—Discharge from Custody.

(1) Where the execution of a bond is a condition of the release of any person, that person shall be released as soon as the bond has been executed and if he is in prison or police custody, the Court shall issue an order of release to the officer in charge of the prison or other place of detention and the officer on receipt of the order shall release him.

(2) Nothing in this section or in section 96 shall require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Section 99—Deposit Instead of Recognizance.

When any person is required by any Court or officer to execute a bond, with or without sureties, the Court or officer may, except in the case of a bond for good behaviour permit him to deposit a sum of money of such amount as the Court or officer may fix in lieu of executing such a bond, as security for the due performance of the conditions imposed on him by the Court or officer requiring the execution of the bond. Upon the breach of any such conditions, proceedings under section 104 may be taken for the forfeiture of the deposit in the same manner and to the same extent as if a bond for the amount of the deposit had in fact been executed.

Section 100—Variation of a Recognizance.

If at any time after a bond has been entered into it appears to the Court that for any reason the sureties are unsuitable or that having regard to all the circumstances of the case, the amount of the bond is insufficient, the Court may issue a summons or warrant for the appearance of the principal, and upon him coming before the Court, may order him to execute a fresh bond in another amount or with other surety or sureties, as the case may be, and on his failing to do so may commit him to prison for a term not exceeding the maximum term for which he could have been committed to prison had he failed to produce a surety in the first instance.

Section 101—Discharge of Sureties.

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

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

(3) On the appearance of the person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as it relates to the applicant or applicants, and shall call upon such person to find other sufficient sureties, and if he fails to do so may commit him to prison.

Section 102—Recognizances in Respect of Minors.

When in any case the person in respect of whom a Court makes an order requiring that a bond to be entered into is a juvenile, the Court shall not require the juvenile to execute the bond, but shall require a relative, guardian, or other fit person with or without sureties to execute a bond on condition that the juvenile shall do what is required under the Court's order. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (1)]

Section 103—Persons Bound by Recognizance Absconding may be Committed.

If it appears to any Court, on information on oath, that any person bound by bond to appear before any Court or police officer is about to leave Ghana, the court may cause him to be arrested and may

commit him to prison until the trial, unless the Court shall see fit to admit him to bail upon further recognizance.

#### Section 104—Forfeiture of Recognizance.

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

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover it by forfeiting any sum deposited in pursuance of section 99 or by issuing a warrant for the attachment and sale of the movable property belonging to such person or his estate if he be dead.

(3) The warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorise the attachment and sale of any movable property belonging to such person without such limits, when endorsed by any Magistrate within the local limits of whose jurisdiction such property is found.

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

(5) [Repealed by the Criminal Procedure Code (Amendment) Act, 2002 (Act 633), s. (8)].

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

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

#### Section 105—Appeal from and Review of Orders.

All orders passed under section 104 by any Magistrate shall be appealable to and may be reviewed by the High Court.

#### Section 106—Order of Fresh Security Upon Original Order.

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

#### Section 107—Power to Direct Levy of Amount Due on Certain Recognizances.

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

#### Section 108—Photographs and Finger Prints.

(1) Whenever any person is prosecuted and charged before any Court with an offence which amounts to a felony, or involves fraud or dishonesty, then and in every such case, whether such offence is to be tried summarily or on indictment, or whether the person has or has not been admitted to bail, a competent police authority of the locality may at his discretion cause to be taken for use and record in the Police Department such photographs, descriptions, measurements, thumb prints, and finger prints of the person as the competent police authority thinks fit.

(2) If the person is not convicted as a result of or in connection with that prosecution, then the photographs and the records of his thumb prints and finger prints shall be destroyed.

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

#### Joinder of Charges and Accused.

#### Section 109—Joinder of Charges.



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

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

Section 110—Joinder of Accused.

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

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

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

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

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

(2) No trial shall be invalidated by reason only that two or more persons have wrongly been tried together on one complaint, charge sheet or indictment unless objection is made by any of the accused at the time or before he was called upon to plead.

Section 111—Separate Trial if Accused Likely to be Prejudiced by Joinder.

Notwithstanding sections 109 and 110, where before any trial or at any stage of a trial, the Court is of opinion that the person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same complaint, charge sheet, or indictment, the Court may order a separate trial of any count or counts of such complaint, charge sheet, or indictment.

Section 112—Statement of Charges in Necessary Documents.

(1) Subject to the special rules as to indictments hereinafter mentioned, every charge, complaint, summons, warrant, or other document laid, issued or made for the purpose of or in connection with any proceedings before any Court for an offence shall be sufficient if it contains a statement of the offence with which the accused person is charged together with such particulars as may be necessary for giving reasonable information as to the nature of the charge and notwithstanding any rule of law to the contrary it shall not be necessary for it to contain any further particulars than the said particulars.

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

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

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

(5) The following rules shall be applicable in all cases in which it may be necessary to refer to the ownership or description of property in any complaint, summons, warrant, charge sheet, or indictment—

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

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

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

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

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

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

#### Section 113—Retrial.

A person who has been once tried by a Court of competent jurisdiction for an offence, and convicted or acquitted of the offence, shall not be liable to be tried again on the same facts for the same offence or any other offence of which he could have lawfully been convicted at the first trial unless a retrial is ordered by a Court having power to do so.

#### Section 114—Retrial on Separate Charge.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under subsection (2) of section 109.

#### Section 115—Consequences Supervening or not Known at Time of Former Trial.

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

#### Section 116—Where Original Court was not Competent to Try Subsequent Charge.

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

#### Section 117—Proof of Previous Conviction or Acquittal.

(1) In any enquiry, trial, or other proceedings under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force—

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

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

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

(2) A certificate in the form prescribed by the Minister responsible for the Police given under the hand of an officer appointed by the Minister in that behalf, who has compared the finger prints of an accused person with the finger prints of a person previously convicted, shall be prima facie evidence of all facts therein set forth provided it is produced by the person who took the fingerprints of the accused.

(3) A previous conviction in any place outside Ghana may be proved by the production of a certificate purporting to be given under the hand of a police officer in the country where the conviction was had, containing a copy of the sentence or order, and the finger prints, or photographs of the finger prints of the person so convicted, together with evidence that the finger prints of the person so convicted are those of the accused person, or a certificate given under the hand of an officer appointed by the Minister under subsection (2) of this section that he has compared the fingerprints or photographs thereof of the person previously convicted with the fingerprints of the accused person and that they are those of one and the same person; and any certificate issued in

accordance with this subsection shall be prima facie evidence of all facts therein set forth without proof that the officer purporting to sign it did in fact sign it and was empowered so to do.

#### Offences by Aliens Within Territorial Waters

##### Section 118—Trial of Aliens for Offences Committed in Territorial Waters.

(1) Subject to subsection (2) of this section proceedings for the trial of any person, who is not a citizen of Ghana for an offence committed within the territorial waters of the Republic, shall not be instituted in any Court except with the leave of the President and upon his certificate that it is expedient that such proceedings should be instituted.

(a) Proceedings before a Magistrate previous to the committal of an offender for trial, or to the determination of the Magistrate that the offender is to be put upon his trial, shall not be deemed proceedings for the trial of the offence committed by the offender for the purposes of the said consent and certificate.

(b) It shall not be necessary to aver in any charge or indictment that the consent or certificate required by this section has been given, and the fact of it having been given shall be presumed, unless disputed by the accused at the trial; and the production of a document purporting to be issued by the President and containing such consent and certificate shall be sufficient evidence for all the purposes of this section of the consent and certificate required by this section.

(3) "Offence" in this section means a felony or misdemeanour.

#### Examination of Witnesses

##### Section 119—Repeal.

Repealed by N.R.C.D. 324.

##### Section 120—Repeal.

Repealed by Act 372, 3rd schedule.

##### Section 121—Certain Scientific Reports to be Evidence in all Courts.

(1) Any document purporting to be an original report under the hand of any Government medical practitioner, analyst, chemical examiner or geologist, or of any assayer or mineralogist recognised by Minister for the purposes of this section by notification published in the Gazette, upon any substance or thing submitted to him for examination or analysis and report, may, if it is directed to the Court or is produced by any police officer to whom it is directed or someone acting on his behalf, be used as evidence of the facts therein stated in any enquiry, trial, or other proceeding under this Code.

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

(3) Any document purporting to be an original report under the hand of a person gazetted as the Chief Transport Officer or as an Engineer Transport Officer relating to the condition of any motor vehicle or trailer, may, if it is directed to the Court or produced by any police officer to whom it is addressed or by someone acting on his behalf, be admitted as evidence of the facts therein stated in any trial before a District Court. For the purposes of this subsection "motor vehicle" and "trailer" shall have the meanings respectively assigned to them under the Road Traffic Ordinance.

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

(5) Upon receiving such report in evidence the Court shall if it thinks such a course proper for the ends of justice, summon and examine such medical practitioner, analyst, chemical examiner, geologist, or mineralogist, or a person gazetted in accordance with subsection (3), as a witness or cause his evidence to be taken on commission under the provisions of this Code as the case may require.

##### Section 122—Documents or Copies to be Evidence.

(1) Subject to this section where, at the trial of a person, it is necessary or desirable to produce to the Court any official document issued by any authority or officer of the Armed Forces (or any entry in any such document), then, and in any such case—

(a) a document purporting to be an original document under the hand of an officer of the Armed Forces, and certified by the officer having the custody of the document as being produced from his custody; or

(b) a copy of any document (or of any entry in a document which is certified under the hand of the officer having the custody of the original document to be a true copy of the original document or entry,

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

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

(3) The Court, when acting under this section at any trial, may presume that the signature of any military authority or officer is genuine and that the person signing or certifying held at the time the rank or appointment which he professed to hold.

(4) Nothing in this section shall prevent the Court, if it thinks such a course proper for the ends of justice, from summoning or examining as a witness at any stage of the proceedings, the authority or officer concerned, or from causing his evidence to be taken on commission under the provisions of this Code.

Section 123—Repeal.

Repealed by N.R.C.D. 324

Commissions for the Examination of Witnesses

Section 124—Issue of Commission for Examination of Witness.

(1) Whenever the High Court or a Circuit Court is satisfied that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without such delay, expense, or inconvenience as, in the circumstances of the case, would be unreasonable, the Court may dispense with such attendance and issue a commission to any District Magistrate, within the local limits of whose jurisdiction the witness resides, to take the evidence of the witness.

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

Section 125—Power of Magistrate to Apply for Commission.

Whenever in the course of any enquiry, trial, or other proceeding under this Code before any District Magistrate it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without such delay, expense, or inconvenience as in the circumstances of the case, would be unreasonable, the Magistrate shall apply to the High Court or a Circuit Court stating the reasons for the application; and the Court may either issue a commission in the manner hereinbefore provided or reject the application.

Section 126—Parties may Examine Witnesses.

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

(2) Any such party may appear before the Magistrate by counsel, or in person, and may examine, cross-examine, and re-examine (as the case may be) the said witness.

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

Section 127—Return of Commission.

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

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

Section 128—Adjournment of Enquiry or Trial.

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

Evidence for Defence

Section 129—Evidence of Witnesses.

(1) A person charged and called as a witness in pursuant of this Code shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed, or been convicted of or been charged, with any offence other than that wherewith he is then charged, or that he is of bad character, unless

(a) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged: or

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

Provided that nothing in paragraph (b) of this subsection shall be deemed to authorise the accused to be asked or to require him to answer any question tending to show that he has committed or been convicted of or been charged with any offence other than that wherewith he is charged or an offence involving dishonesty or false statement.

(2) Every person called as a witness in pursuance of this Code shall, unless otherwise ordered by the Court, give his evidence from the witness-box or other place from which the other witness give their evidence.

Section 130—Repealed.

Repealed by N.R.C.D. 324

Section 131—Alibi.

(1) If the person charged intends to put forward as a defence a plea of alibi, he shall be bound to give notice thereof to the prosecutor or his counsel with particulars as to the time and place and of the witnesses by whom it is proposed to prove it, prior in the case of a summary trial to the examination of the first witness for the prosecution and prior in the case of trial on indictment to the sitting of the trial Court on the date to which the case has been committed for trial.

(2) If such notice is given the Court may upon the application of the prosecution grant such adjournment as in the circumstances appears to the Court to be reasonable.

(3) If the person charged puts forward a defence of alibi without having given such notice the Court shall call upon him to give notice to the prosecution of the particulars mentioned in subsection (1) either forthwith or within such time as the Court may allow and after such notice has been given shall, if the prosecution so desires, adjourn the case.

(4) If the person charged refuses to furnish the said particulars as required the case shall proceed but no evidence in support of a plea of alibi shall be admissible evidence.

Section 132—Right of Reply.

(1) In cases where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the person charged has been called as witness shall not of itself confer on the prosecution the right of reply.

(2) Any of the following officers when appearing personally as counsel for the prosecution shall, in all cases, have the right of reply, that is to say—

(a) the Attorney-General, the Deputy Attorney-General, the Solicitor-General, the Director of Public Prosecutions or the Chief Parliament Draftsman;

(b) any Chief State Attorney, Principal State Attorney, Senior State Attorney or State Attorney;

(c) any Police Officer being a person of not less than three years standing as a lawyer.

Lunacy of Accused and Defence of Lunacy

Section 133—Enquiry by Court as to Lunacy of Accused.

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

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

(3) If the case is one in which bail may be taken the Court may then release the accused on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance at a stated time, or when required, before the Court or such officer as the Court appoints in that behalf.

(4) If the case is one in which bail may not be taken, or if sufficient security is not given, the Court shall order the accused to be detained in safe custody in such place and manner as it may think fit and shall transmit the Court record or a certified copy thereof to the Minister through the Judicial Secretary.

(5) Upon consideration of the record the Minister may by warrant under his hand directed to the Court order that the accused may be confined as a criminal lunatic in a lunatic asylum or other suitable place of custody and the Court shall give any directions necessary to carry out such order. Any such warrant of the Minister shall be sufficient authority for the detention of the accused until the Minister shall make further order in the matter or until the Court finding him incapable of making his defence shall order him to be brought before it again in the manner provided by sections 134 and 135.

Section 134—Procedure when Certified as Capable of Making his Defence.

(1) If any person confined in a lunatic asylum or other place of custody under section 133 is found by the medical officer in charge of the asylum or place to be capable of making his defence, the medical officer shall forthwith forward a certificate to that effect to the Attorney-General. The certificate shall state whether, in the opinion of the medical officer, the person confined is fit to be unconditionally discharged.

(2) The Attorney-General shall thereupon inform the Court which recorded the finding against that person under section 133 whether it is the intention of the State that the proceedings against him shall continue or otherwise.

(3) In the former case the Court shall thereupon order the removal of the person from the place where he is detained and shall cause him to be brought in custody before it in the manner described by section 135.

(4) If the Attorney-General informs the Court that the State does not intend to continue the proceedings then—

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

(b) in any other case, the Court shall make a note on the record to that effect, and the person may thereafter be dealt with in like manner as a criminal lunatic under subsections (3) to (5) of section 137.

#### Section 135—Resumption of Proceedings.

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

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

(3) If the Court considers the accused to be still incapable of making his defence, it shall act as if the accused were brought before it for the first time.

#### Section 136—Defence of Lunacy at Preliminary Proceedings.

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

#### Section 137—Defence of Lunacy on Trial on Indictment

(1) Where any act is charged against any person as an offence and it is given in evidence on the trial of such person for that offence that he was insane so as not to be responsible according to section 27 or 28 of the Criminal Code for his action, then, if it appears to the Court before which he is tried or, in the case of a trial by jury if it appears to the jury that he did the act charged but was insane at the time when he did it, the Court or jury as the case may be shall return a special verdict to the effect that the accused was guilty of the act charged but was insane as aforesaid when he did the act.

(2) When the special verdict is found the Court shall forward the Court record or a certified copy thereof to the Minister and shall order the accused to be kept in custody as a criminal lunatic, in such place and in such manner as the Court shall direct till the President's pleasure shall be known, and it shall be lawful for the Minister to signify the President's pleasure by warrant under his hand and for the Minister therein and from time to time to give such or order for the safe custody of the said person during pleasure, in such place of detention, prison, or other suitable place of safe custody and in such manner as the Minister may deem fit.

(3) The Minister may by warrant under his hand, at any time discharge any criminal lunatic from such custody, and any such discharge may be absolute or subject to such conditions as the Minister in any case may think fit to impose.

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

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

#### Section 138—Procedure when Accused does not Understand Proceedings.

If the accused, though not insane, cannot be made to understand the proceedings the Court may proceed with the preliminary proceedings or trial; and, in the case of a Court other than the High Court, if the investigation results in a committal for trial, or if the trial results, in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances, and the High Court shall pass thereon such order as it thinks fit.

#### Costs and Compensation

#### Section 139—Costs against Accused and against Private Prosecutor.

[Repealed by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (9)]

Section 140—Order to Pay Costs Appealable.

[Repealed by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (10)]

Section 141—Compensation in Case of Frivolous or Vexatious Charge.

(1) If on the discharge or acquittal of an accused the Court is of opinion that the charge was frivolous or vexatious the Court may order the complainant to pay to the accused a reasonable sum not exceeding 5 penalty units as compensation for the trouble and expense to which such person may have been put by reason of the charge. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (11)]

(2) This section shall not apply to any police officer acting bona fide in the course of his duties.

(3) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made by him.

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

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

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

Section 142—Costs and Compensation to be Specified in Order, how Recoverable.

The sum allowed for compensation shall in all cases be specified in the conviction or order, and be recoverable in like manner as any penalty may be recovered under this Code; and in default of payment of such compensation or of distress as hereinafter provided, the person in default shall be liable to imprisonment with or without hard labour for a term not exceeding three months unless such compensation shall be sooner paid. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (12)]

Section 143—Repealed.

Repealed by Act 372, 3rd Schedule.

Disposal and Restitution of Articles and Property

Section 144—Power of Court to Order destruction, Etc. of Article.

(1) Notwithstanding anything in this Code or in any enactment, when any person is convicted of an offence the Court may make such order as in any case it thinks fit for the destruction or for the forfeiture and disposal of any article produced before it regarding any offence appears to have been committed, or which has been used for the commission of any offence.

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

(3) In this section "article." includes, in the case of an article regarding which an offence appears to have been committed, not only the original article but also any article or property into or for which it may have been converted or exchanged and anything acquired by such conversion or exchange whether immediately or otherwise.

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

(5) No order shall be made under this section in respect of any article unless the article is owned by the accused or is in his possession with the consent of the owner in such circumstances as to show that the owner was aware that an offence would be committed in respect thereof, or that it would be



used for the commission of an offence. Any person claiming to be the owner of the article shall be entitled to appear and be heard before any order is made under this section. For the purposes of this subsection "owner" includes any person with an interest in the article.

#### Section 145—Restitution of Property Found on Person Arrested.

Where, upon the apprehension of a person charged with an offence, any property is taken from him, the Court before which he is charged may order that the property or a part thereof be restored to the person who appears to the Court to be entitled thereto, and, if he be the person charged, that it be restored either to him or to such other person as the Court may direct, or that it be applied to the payment of any costs or compensation directed to be paid by the person charged.

#### Section 146—Restitution of Property Stolen, Etc.

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

#### Section 147—Restriction Disposal of Property of Accused Person.

Where any money or other property in respect of which any person has been charged before a court with an offence involving dishonesty is in the custody or possession of a person other than the accused, the trial court of its motion or on the application of the prosecutor or the alleged victim of the offence or any other court on the application of the prosecutor or the alleged victim of the offence may order that the person in whose custody or possession the money or property is shall not part with or dispose of the money or property until otherwise directed by the Court.

#### Section 147A.—Payments of Money made by Accused Persons.

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

(a) that he gave valuable consideration commensurate to the payments, of money or transfers of property made to him, or

(b) that he is a dependant of the person convicted and that the payments of money were his reasonable living expenses made to him as such dependant.

(2) An order under this section shall be deemed to be an exercise of the civil jurisdiction of the court in an action between the person in whose favour the order has been made as plaintiff and the person against whom the order has been made as defendant and shall be enforceable in the same manner and be subject to like appeal as are orders for the return of money.

(3) The court shall have jurisdiction under this section notwithstanding that the value of the money or property exceeds the limits of the civil jurisdiction of the court.

#### Section 147B.—Order for Recovery of Property or its Value.

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

(2) An order under this section shall be deemed to be an exercise of the civil jurisdiction of the court in an action between the victim of the offence as plaintiff and the offender as defendant and shall be enforceable in the same manner and be subject to the like appeal as are orders for the return of chattels or of money.

(3) In case of dispute as to the value of the property the issue shall be tried by the court in the same manner as in a civil action.

(4) The court shall have jurisdiction under this section notwithstanding that the value of the property involved exceeds the limits of the civil jurisdiction of the court.

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

Section 147C.—Definition of an Offence Involving Dishonesty.

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

Section 148—Power to Order Offender to make Compensation.

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

(2) Any person who is convicted of an offence on summary conviction may be ordered by the Court to make compensation, not exceeding €10 million, to any person injured by his offence. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (13)]

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

Section 149—Effect of Payment of Compensation.

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

Section 150—Property in Possession of Police.

Where property has come into the possession of the Police in connection with any criminal charge it shall be dealt with in accordance with section 35 of the Police Service Act, 1970 (Act 350).

Section 151—Repealed.

Repealed by Act 350, section 40.

Summary Procedure in Perjury

Section 152—Perjury.

(1) The Court, if it appears to it that a person has been guilty of perjury in any proceeding before it, may—

(a) commit him for trial upon indictment for perjury and bind any person by recognizance to give evidence at the trial; or

(b) commit him to prison for any term not exceeding six months with or without hard labour, or fine him any sum not exceeding 150 penalty units, or impose both such penalties upon him, in each such case as for a contempt of court.

(2) (a) Where, however, the Court is a District Court, the penalties shall be limited to three months' imprisonment or to a fine of 100 penalty units or to both.

(b) On imposing any penalty as for a contempt of Court under this section, a Magistrate shall make and keep a minute recording of the facts of the penalty; and he shall forthwith send a copy of the minute to the appropriate Judge of the High Court.

(c) Except where the order of the Magistrate is set aside by a judge of the High Court any penalty imposed under this section shall be a bar to any other criminal proceedings in respect of the same offence. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (14) (a),

(b)]

Convictions for Offence Other than Charged

Section 153—Person Accused of any Offence may be Convicted of Attempt.

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

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

Section 154—When Offence Proved is Included in Offence Charged.

(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete lesser offence, and such combination is proved

but the remaining particulars are not proved, he may be convicted of the lesser offence although he was not charged with it.

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

Section 155—Conviction of Extortion on Charge of Corruption and Vice Versa.

(1) When a person is charged with extortion as a public officer or juror and it is proved that he was guilty of corruption he may be convicted of corruption although he was not charged with that offence.

(2) When a person is charged with corruption as a public officer or juror and it is proved that he was guilty of extortion he may be convicted of extortion although he was not charged with that offence.

Section 156—Conviction of Receiving on Charge of Stealing.

When a person is charged with stealing anything and it is proved that he received the thing knowing the same to have been stolen, he may be convicted of receiving although he was not charged with that offence.

Section 157—Conviction of False Pretences on Charge of Stealing and Vice Versa.

(1) When a person is charged with stealing anything and it is proved that he obtained the thing in any such manner as would amount under the provisions of the Criminal Code to defrauding by false pretences he may be convicted of defrauding by false pretences although he was not charged with that offence.

(2) When a person is charged with defrauding by false pretences and it is proved that he stole the thing he may be convicted of stealing it although he was not charged with that offence.

Section 158—Convicted of Extortion on Charge of Robbery, and Vice Versa.

(1) When a person is charged with robbery and it is proved that he was guilty of, extortion he may be convicted of extortion although he was not charged with that offence.

(2) When a person is charged with extortion and it is proved that he was guilty of robbery he may be convicted of robbery although he was not charged with that offence.

Section 159—Person Charged with Rape or Defilement may be Convicted of Kindred Offence.

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

(2) Where a person is charged with an offence under section 106 of the Criminal Code (which relates to a householder permitting defilement of a juvenile on premises belonging to the householder) the householder may be convicted of an offence under section 273 of the Criminal Code (which relates to permitting persons under sixteen years to be in brothels) although the person was not charged with that offence. [As substituted by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (15), and further amended by the Criminal Procedure Code (Amendment) Act, (Act 633) s.(1)]

Section 160—Repeal.

Repealed by N.L.C.D. 406 2nd schedule.

Section 161—Conviction of Motoring Offence on Charge of Manslaughter.

When a person is charged with manslaughter in connection with the driving of a motor vehicle by him and the Court is of the opinion that he is not guilty of that offence, but that he is guilty of an offence under section 17, 18 or 19 of the Road Traffic Ordinance, he may be convicted of that offence although he is not charged with it.

Section 162—Conviction on Other Charges Pending.

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

PART III—SUMMARY TRIAL

Section 163—Summary Trial.

(1) A reference in any enactment to an offence as

- (a) a summary offence;
- (b) triable summarily; or
- (c) punishable summarily

means that the offence shall be tried in accordance with this Part.

(2) For the avoidance of doubt where there is no provision as to whether an offence is triable summarily or on indictment, the offence shall be triable as a summary offence. [As substituted by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (16)]

Section 164—Application.

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

Procedure Upon Summary Trial

Section 165—Publicity.

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

Section 166—Non-Appearance of Prosecutor.

(1) When the accused comes before the Court on summons or warrant, or otherwise, either originally or on adjournment, then if the prosecutor, having had notice of the time and place appointed for the hearing or adjourned hearing of the charge, does not appear, the Court shall dismiss the charge, unless for some reason it thinks it proper to adjourn or further adjourn the hearing of the case until some other date, upon such terms as it shall think fit.

(2) Where the accused does not appear personally and pleads guilty in writing or by his advocate under section 70 the Court may proceed to conviction notwithstanding the absence of the prosecutor or his advocate.

Section 167—Non-Appearance of Accused.

When the accused does not appear personally nor plead in writing or by his advocate under section 70, the Court shall issue a warrant to apprehend him and cause him to be brought before such Court under section 72.

Section 168—Appearance of Both Parties.

If at the time appointed for the hearing of the case both the prosecutor and the accused appear before the Court which is to hear and determine the charge, or if the prosecutor appears himself or by his advocate and the personal attendance of the accused person has been dispensed with under section 70, the Court shall proceed to hear the case.

Section 169—Adjournment.

(1) Before or during the hearing of any case, the Court may in its discretion adjourn the hearing to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties or their respective advocates then present, and in the meantime the Court may suffer the accused to go at large, or may commit him to prison, or may release him upon his entering into a bond with or without sureties, at the discretion of the Court, conditioned for his appearance at the time and place to which such hearing or further hearing be adjourned.

(2) The adjournment shall not be for more than thirty clear days, or if the accused person has been committed to prison, for more than fourteen clear days, the day following that on which the adjournment is made being counted as the first day. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (17)]

Section 170—Non-Appearance of Parties after Adjournment

(1) If at the time or place to which the hearing or further hearing has been adjourned, the accused does not appear before the Court which made the order of adjournment, the Court may, unless the accused person is charged with felony, proceed with the hearing or further hearing as if the accused were present. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (18)]

(2) Where a Court is satisfied that any person accused of any offence who is bound by bond to appear at any hearing or adjourned hearing of the case, is by reason of illness or accident unable at the date of such hearing or further hearing to appear personally before the Court, it may, in the

absence of the accused, order a further adjournment for such time as may be lawful and reasonable and the time conditioned in the accused's bond shall be deemed to be varied accordingly.

(3) If the Court convicts the accused in his absence, it may set aside such conviction upon being satisfied that his absence was from causes over which he had no control, and that he had a probable defence on the merits.

(4) Where any sentence is passed in the accused's absence under subsection (1) the Court shall give directions for the carrying out of such sentence and shall issue its commitment or other warrant therefor, and in addition to authorising the carrying out of the sentence, such warrant shall, if necessary, be deemed to authorise the apprehension of the convicted person for the purpose of carrying out the sentence. The person effecting such apprehension shall endorse the date thereof on the back of the warrant and any sentence of imprisonment imposed on a person apprehended on such warrant shall commence from the date of his apprehension.

(5) If the accused who has not appeared as aforesaid is charged with felony, or if the Court, in its discretion, refrains from convicting the accused in his absence, the Court shall issue a warrant for the apprehension of the accused and cause him to be brought before the Court.

Section 171—Accused to be called upon to Plead.

(1) If the accused appears personally or, under section 70 (1), by his advocate, the substance of the charge contained in the charge sheet or complaint shall be stated and explained to him, or if he is not personally present, to his advocate (if any), and he or his advocate, as the case may be, shall be asked whether he pleads guilty or not guilty.

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

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

(3) If the plea is one of not guilty the Court shall proceed to hear the case as hereinafter provided.

(4) If the accused or his advocate, as the case may be, refuses to plead, or if he does not appear and the Court decides to hear the case in his absence under the provisions of section 170 a plea of not guilty shall be entered and the plea so entered shall have the same force and effect as if the same had been actually pleaded.

Section 172—Procedure on Plea of not Guilty.

(1) If the accused does not plead guilty to the charge, the Court shall proceed to hear such evidence as the prosecutor may adduce in support of the charge.

(2) The accused or his advocate may put questions to each witness produced against him.

(3) If the accused does not employ an advocate, the Court shall, at the close of the examination of each witness for the prosecution, ask the accused whether he wishes to put any questions to that witness and shall record his answer.

(4) If the accused instead of questioning the witness makes any statement regarding the evidence of that witness, the Magistrate shall, if he thinks it desirable in the interest of the accused, put the substance of such statement to the witness in the form of questions.

Section 173—Acquittal of Accused when no Case to Answer.

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

Section 174—The Defence.

(1) At the close of the evidence in support of the charge, if it appears to the Court that a case is made out against the accused sufficiently to require him to make a defence, the Court shall call upon him to enter into his defence and shall remind him of the charge and inform him that, if he so desires, he may give evidence himself on oath or may make a statement. The Court shall then hear the accused if he desires to be heard and any evidence he may adduce in his defence.

(2) If the accused states that he had witnesses' to call but that they are not present in Court, and the Court is satisfied that the absence of such witnesses is not due to any fault or neglect of the accused, and that there is a likelihood that they could, if present, give material evidence on behalf of the accused, the Court may adjourn the trial and issue process, or take other steps, to compel the attendance of such witnesses.

(3) If the accused person has examined any witnesses or given any evidence other than as to his, the accused's, general character, the Court may grant leave to the prosecutor to give or adduce evidence in reply.

#### Section 175—Addresses to the Court.

(1) The prosecutor or his advocate shall be entitled to address the Court at the commencement of his case and, where the accused has called witnesses, other than witnesses as to his general character, also at the conclusion of the case for the defence. The accused or his advocate shall be entitled to address the Court at the commencement or in conclusion of his case as he thinks fit.

(2) Except with the leave of the Court, the Accused or his advocate shall not be entitled to address the Court on evidence adduced by the prosecutor in reply.

#### Section 176—Variance between Charge and Evidence.

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

(2) Where the charge is altered as aforesaid, the court shall thereupon call upon the accused to plead to the altered charge.

(3) Where the charge is altered under subsection (1), the accused may require that the witnesses or any of them be recalled and be further cross-examined by him or his advocate and, in such case, the prosecution shall have the right to re-examine any such witness on matters arising out of such further cross-examination.

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

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

(6) Where any such variance appears to the Court to be such that the accused has been thereby deceived or misled, the Court may, upon such terms as it thinks fit, adjourn the hearing of the case to some future day.

(7) Upon any such variance appearing, the Court may make such amendment of the summons, complaint, or charge sheet as it deems fit and may permit any witness to be recalled and further questioned upon any matters relevant to the variance or amended charge.

#### Section 177—The Decision.

(1) The Court, having heard what each party has to say and the witnesses and evidence so adduced, shall consider and determine the whole matter and may either convict the accused and pass sentence upon or make an order against him according to law or acquit him, as the case may be, and the Court shall give its decision in the form of an oral judgment, and shall record the decision briefly together with the reason for it, where necessary.

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

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

Section 178—Committal for Sentence.

[Repealed by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (19)]

Section 179—Procedure where Offence Appears Unsuitable for Summary Determination.

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

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

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

Section 180—Jurisdiction of District Court Ousted where Question of Title to Land is Involved.

[Repealed by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (20)]

Section 180A.—Repealed.

Repealed by Act 372 3rd schedule

PART IV—COMMITTAL FOR TRIAL FOR INDICTABLE OFFENCE

Preliminary Hearing by District Court

Section 181—Procedure.

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

Section 182—Bill of Indictment and Summary of Evidence.

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

(a) a bill of indictment which shall state in writing the charge against the accused;

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

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

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

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

(5) The Registrar of the Court to which the documents and things referred to in subsection (4), were delivered shall be responsible for the custody of those documents and things and shall, for that purpose—

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

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

Section 183—Authentication of Indictment and Summary of Evidence.

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

Section 184—Conduct of Preliminary Hearing.

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

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

(3) No such address shall be recorded but the accused may make a statement to be recorded under section 187.

(4) If the Court is of opinion that there is a case for the accused to answer, it shall commit him for trial to a Court (in this Part called "the trial Court") of competent jurisdiction.

(5) If the Court is of opinion that there is not a case for the accused to answer, it shall discharge him but this shall not be a bar to a subsequent charge in respect of the same facts.

Section 185—Not a Public Court.

The room or place in which the proceedings are held is not an open or public Court for that purpose, and the Court may, if it thinks that the ends of justice will be best served by so doing, order that no person have access to, or be, or remain in that room or place without the express permission of the Court.

Section 186—Adjournments.

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

Section 187—Provisions as to Taking Statement of Accused Person.

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

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

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

(3) Whatever the accused states in answer to the charge shall be recorded in full and shall be shown or read over to him, and he shall be at full liberty to explain or add to his statement.

(4) When the whole statement is made conformable to what he declares to be the truth, the statement shall be attested by the District Magistrate, who shall certify that such statement was taken in his presence and hearing and contains accurately the whole statement made by the accused. The accused shall sign or attest by his mark such record. If he refuses, the Court shall add a note of his refusal and the statement may be used as if he had signed or attested it.

(5) Any person requested to make a statement under this section shall be entitled to do so without being sworn.

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

Section 188—Witnesses for the Defence.

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

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

(3) If any such witness is present in Court, the Court may bind him by recognizance, with or without a surety or sureties, to appear at the trial to give evidence.

(4) The Court shall inform the accused of his right to require the attendance at the trial of any witness and of the steps which he must take for the purpose of enforcing such attendance.

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

Section 189—Refusal to Enter into Recognizances.

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

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

Section 190—Order of Committal for Trial.



(1) The order of the District Court committing an accused for trial shall name the day, time and place at which the accused is to appear before the trial Court in answer to the indictment preferred against him. The day so named shall be not more than one month after the date of committal. Provided that a committal for trial shall not be invalidated by reason only of a failure to comply with this subsection.

(2) The District Court shall admit the accused to bail or send him to prison for safe keeping until the day so named.

(3) The warrant of the District Court shall be sufficient authority to the keeper of any prison appointed for the custody of prisoners committed for trial notwithstanding that the prison may be out of the area of jurisdiction of the Court.

#### Section 191—Option of Accused Respecting Trial.

Where the charge is one in which an option is given to the accused, the Court upon committing the accused for trial upon indictment shall ask him whether he desires to be tried with a jury or by the Court with assessors and shall record and attest by his signature the answer of the accused, who shall also sign or attest by his mark such record; if he refuses to do so, the Court shall add a note of his refusal, and the answer shall be used as if he had signed it.

#### Section 192—Proceedings against Corporation.

(1) A corporation may be charged, either alone or jointly with any other person, with an indictable offence and the provisions of this Part shall, subject to this section, apply to the corporation as they apply to any other accused person.

(2) The corporation may appear before the Court by a representative and any answer to the questions to be put under this Code may be made on behalf of the corporation by that representative, but if the corporation does not so appear it shall not be necessary to put the questions, and the Court may, notwithstanding, commit the corporation for trial.

(3) The corporation may, on arraignment before the trial Court, render in writing by its representative a plea of guilty or not guilty, and if either the corporation does not appear by a representative, or, though it does so appear, fails to enter as aforesaid any plea, the Court shall proceed as though the corporation had duly entered a plea of not guilty.

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

(5) A representative for the purpose of this section need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as prima facie evidence that that person has been so appointed.

#### Section 193—Returns to be made to Court and Attorney-General.

In the event of a committal for trial the bill of indictment, the summary of evidence, any recorded statement of the accused, his answer respecting the Court before which he desires to be tried (if any), the recognizances of the witnesses, and the recognizances of bail (if any), and any documents and things which have been delivered into the custody of the District Court, shall be transmitted in proper time to the trial Court and an authenticated copy of the statement and answer aforesaid shall be transmitted to the Attorney-General.

#### Section 193A.—Errors, etc not to Invalidate Committal.

Notwithstanding anything to the contrary in any other provision of this Code, any error, omission or irregularity, in respect of any matter specified in sections 181 to 193 of this Code, during the preliminary hearing, before a District Court of the case of an accused person, shall not invalidate their committal for trial of such person by such Court, unless a District Magistrate or Judge is of

opinion that such error, omission or irregularity is likely to occasion a substantial miscarriage of justice.

#### Preservation of Testimony in Certain Cases

##### Section 194—Power to take Depositions of Persons Dangerously Ill.

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

##### Section 195—Notice to be given in Certain Cases.

If the statement relates or is expected to relate to an offence for which any person has been charged or in respect, of whom there has been a committal for trial, reasonable notice of the intention to take it shall be served upon the prosecutor and accused and if the accused is in custody, he may, and, if he so requests, shall be brought by the person in whose charge he is, under an order in writing of the Judge or Magistrate, to the place where the statement is to be taken.

##### Section 196—Transmission of Statements.

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

##### Section 197—Use of Statement in Evidence.

Upon the trial of any offender or offence to which such statement so taken may relate, if the person who made the statement is proved to be dead or if it is proved that there is no reasonable probability that such person will ever be able to travel or to give evidence, it shall be lawful to read such statement in evidence either for or against the accused person, without further proof thereof, if the same purports to be signed by the judge or Magistrate by or before whom it purports to be taken and provided that it be proved to the satisfaction of the Court that reasonable notice of the intention to take such statement was served upon the person (whether prosecutor or accused) against whom it is proposed to be read in evidence and that such person or his advocate had or might have had if he had chosen to be present, full opportunity of cross-examining the person who made the same.

#### Procedure before Trial Court

##### Section 198—Directions for Trial.

- (1) When the accused comes before the trial Court in pursuance of the committal order the procedure laid down in this section shall be followed.
- (2) The court shall cause the bill of indictment to be read to the accused and if necessary explained to him.
- (3) Any objection by or on behalf of the accused to the indictment or the summary of evidence shall then be taken.
- (4) The Court may cause the indictment to be amended and new counts to be added unless it is of opinion that having regard to the merits of the case the alteration cannot be made without injustice to the accused, and may direct a supplementary summary of evidence to be delivered to the accused and the Court.
- (5) The Court may then require the accused to plead to the indictment or may postpone the taking of his plea to such later date as the Court may direct.
- (6) The Court shall give directions as to the time, place and mode of trial.

##### Section 199—Plea of Guilty.

- (1) Where the accused pleads guilty to a charge, the Court before accepting the plea shall, if the accused is not represented by an advocate, explain to him the nature of the charge and the procedure which follows the acceptance of a plea of guilty.
- (2) The accused may then withdraw his plea and plead not guilty,
- (3) Any statement made by the accused in answer to the Court shall be recorded by the Court in writing and shall form part of the record of the proceedings.

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

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

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

#### Section 200—Taking of Evidence of Witness before Trial.

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

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

(3) Unless the Court, upon hearing the applicant, decides to refuse the application, the Court shall direct that notice of the application be served on the other party and order him to attend on a named day for the further hearing.

(4) In the case of any application under this section the Court may order that the accused shall attend the Court for the hearing of the application and on the taking of the evidence.

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

(6) The order shall be a sufficient warrant to the keeper to bring him before the Court and, if the accused is on bail, shall be obeyed by him notwithstanding the terms of his recognizance.

#### The Bill of Indictment

##### Section 201—Form of Bill of Indictment.

Every bill of indictment shall bear a date on the day when it is signed and, with such modifications as may be necessary to adapt it to the circumstances of each case, shall be in the following form:

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

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

A.B. is charged with the following offences:

First Count

STATEMENT OF OFFENCE

Murder, contrary to section 46 of the Criminal Code.

PARTICULARS OF OFFENCE

A. B., on the                      day of                      19  
at                                      murdered C.D.

Second Count

STATEMENT OF OFFENCE

Manslaughter, contrary to section 50 of the Criminal Code.

PARTICULARS OF OFFENCE

A. B., on the                      day of                      19  
at                                      unlawfully killed C.D.

##### Section 202—General Provisions as to Indictments.

(1) Until provision is otherwise made by rules of Court, this section shall apply to all indictments and an indictment shall not be open to objection in respect of its form or contents if it is framed in accordance with the provisions of this Code.

(2) Every indictment shall contain and shall be sufficient if it contains a statement of the offence with which the accused is charged, together with such particulars as may be necessary for giving

reasonable information as to the nature of the charge and notwithstanding any rule of law to the contrary it shall not be necessary for it to contain any further particulars than the said particulars.

Use of Figures and Abbreviations.

(3) Figures and abbreviations may be used for expressing anything which is commonly expressed thereby.

(4) Mode in which Offences are to be Charged.

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

(b) A count shall commence with a statement of the offence charged, called the statement of offence.

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

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

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

(f) Where any rule of law or any enactment limits the particulars of an offence which are required to be given in an indictment, nothing in this rule shall require any more particulars to be given than those so required.

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

(5) Provision as to Statutory Offences.

(a) Where an enactment constituting an offence states the offence to be the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative the acts, omission, capacities, or intentions, or other matters stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

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

(6) Description of Persons.

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

(7) Description of Document.

Where it is necessary to refer to any document or instrument in an indictment, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

(8) General Rule as to Description.

Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act, or omission whatsoever to which it is necessary to refer in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act, or omission referred to.

(9) Statement of Intent.

It shall not be necessary in stating any intent to defraud, deceive, or injure to state an intent to defraud, deceive, or injure any particular person, where the enactment creating the offence does not

make an intent to defraud, deceive, or injure a particular person an essential ingredient of the offence.

(10) Charge of Previous Convictions.

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

PART V—TRIAL ON INDICTMENT

Procedure on Indictment

Section 203—Trial on Indictment.

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

Section 204—Jury or Assessors.

All trials on indictment shall be by a jury or with the aid of assessors in accordance with the provisions hereinafter contained.

Qualifications and Attendance of Jurors

Section 205—Qualifications of Jurors.

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

Section 206—Repealed.

Repealed by N.R.C.D. 121 Section 2.

Section 207—Exemptions from Jury Service.

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

- (a) The President and members of the National Assembly.
- (b) Judges, District Magistrates, Local Court Magistrates, Coroners, and Deputy Coroners.
- (c) Legal practitioners in actual practice and all other Court officers.
- (d) Registered medical practitioners and registered dentists in actual practice.
- (e) Registered Pharmacists in actual practice.
- (f) Prison officers and warders.
- (g) Police officers.
- (h) Officers and other members of the Armed Forces on full pay.
- (i) Public officers (other than those engaged on clerical duties) employed in the Medical, Posts and Telecommunications, Customs and Excise, or Railway Department or under the Takoradi Harbour Authority.
- (j) Persons actually officiating as priests or ministers of their respective religions.
- (k) Schoolmasters actually engaged in teaching in a school.
- (l) Persons employed in any public electric telegraph office or in any electric power station.
- (m) Diplomatic and consular representatives and all salaried functionaries of foreign Governments.
- (n) Editors of daily newspapers.
- (o) Other persons exempted by the Chief Justice.

Section 208—Disqualifications of Jurors.

Any person convicted of treason or felony, or any offence involving dishonesty (unless he has obtained a free pardon) shall be disqualified from serving as a juror.

Section 209—Preparation of lists of Jurors.

The District Magistrate of all districts shall each year, between the 1st and 31st days of May and between the 1st and 30th days of November, and between such other dates (if any) as the Chief Justice may authorise, make lists of the persons resident at each town or place within their districts at or near which sessions of the High Court or Circuit Court are or shall be held (hereafter referred to as the sessions town), who are qualified and fit, and of persons resident within the district in which the sessions town is situate and within four miles of such town, or within such area as the Minister may by Order published in the Gazette specify, to serve as jurors, setting out the name and surname, and the occupation and place of abode of each person, and shall place them in the Court House of the district for the period of three weeks, to the end that any persons may apply to him by

notice in writing to have their names added to or struck off such list, upon cause duly assigned in such notice.

Section 210—Information to be given when Required.

The District Court may require any person resident within its district to give his full name and surname, occupation, and place of abode, when required for the purposes of this code, and any person refusing or neglecting, when required to give such information, shall be liable on conviction to a fine not exceeding 100 penalty units. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (21)]

Section 211—Lists to be Settled.

At the end of the time for posting such lists the District Court shall hold a public sitting for considering and disposing of all such notices then received, and shall then revise and settle the lists by the addition to or taking away of names therefrom, and by correcting any errors as to the names, occupations, or places of abode of any person included therein. The Court shall mark on each list the time at which it shall commence to be used. The persons named in such notices, and such other persons as the Court may require, shall be bound to attend such sittings.

Section 212—Copies of Lists to be Sent to Registrars.

The District Court, upon the list being so settled, shall send signed copies thereof to the Registrars of the High Court and Circuit Court for the appropriate sessions town. Each list so prepared and delivered as aforesaid shall constitute the jurors' list for the sessions town for which it has been prepared.

Section 213—Yearly Revision of Lists.

The lists so prepared and revised shall be again revised once in every year, and the lists so revised shall be deemed a new list, and shall be subject to all the rules herein contained as to the list originally prepared.

Section 214—How Jury Panel is Formed.

Whenever it is necessary to form a panel of jurors to serve at any sessions, the Sheriff shall cause the names of the jurors in the list prepared for the sessions town at or near which sessions are to be held to be written on separate cards or pieces of paper of equal size, and placed in ballot boxes to be kept for that purpose; and shall draw from the said boxes such number of names as the Court may direct of assessors and jurors to form a panel; and the cards or slips so drawn shall thereupon be locked up in separate boxes until the whole of the names in the ballot boxes shall be exhausted by subsequent panels, when all the names of the jurors, except those who may have served at the last preceding sessions, shall be returned to the ballot boxes; and, when required the names shall be redrawn in manner aforesaid.

Section 215—Certain Names to be Passed Over.

The names of jurors who are dead or permanently resident at a greater distance than four miles from the sessions town, if no other area is specified under section 209 with respect to that town, and, if any such area has been so specified, the names of jurors permanently resident outside that area shall be passed over by the Sheriff in forming a panel.

Section 216—Names of Jurors may be Added to List or Expunged.

In the event of any person, liable and suitable to serve as a juror, being found at any sessions town, or within four miles thereof, or within any area specified under section 209 with respect to such sessions town, after the lists are settled for the year, the District Court may place the name of that person on the list either as a juror or assessor, and he shall be liable to serve as a juror or assessor till a fresh list is brought into force; and whenever any juror or assessor on the list is disqualified his name shall be expunged.

Section 217—Sheriff to Summon Jurors.

The Sheriff (or the officer executing the office of Sheriff, as the case may be), before the sitting of any Court where at a jury is necessary, shall, on receiving from the Court a precept, issue summonses requiring the attendance thereat of the persons so drawn as aforesaid from the ballot box, and every summons shall be personally served upon or left at the usual or last known place of

abode of the person summoned two clear days, or such other time as the Court may direct, before the day appointed for the sitting of the Court.

Section 218—Power of Sheriff to Excuse Attendance of Jurors.

(1) If any person who has been summoned under section 217 shows in writing to the satisfaction of the Sheriff that there is good reason why he should be excused from attending as required in the summons, the Sheriff may excuse that person from so attending.

(2) The Sheriff shall produce to the Court all applications received by him from persons asking to be excused from attendance as required in the summons and any correspondence relating to any such application and shall, where he has complied with the applications, state to the Court his reasons for so doing.

Section 219—In case Jurors cannot be found.

If any of such persons cannot be found, the Sheriff shall obtain so many additional names, drawn in the aforesaid manner, as may be necessary to make up the jurors to the proper number, and shall issue summonses to such persons in like manner.

Section 220—Sheriff to Deliver Panel to Registrar.

The Sheriff shall cause to be delivered to the Registrar, a panel containing the names, occupations, and places of abode of the persons so summoned.

Section 221—Trials for which no Jurors List.

If trials on indictment are held at any place or by any Court for which a jurors list has not been prepared under this Code, the Sheriff or Registrar may prepare a temporary jurors list for the purpose of such trials, and all the provisions of this Code shall, so far as applicable, apply in the case of the persons whose names are entered upon such temporary list.

Section 222—Penalty on Jurors not Attending.

Any person summoned to attend the Court as a juror who does not, without reasonable excuse (the burden of proof whereof shall rest on such juror), duly attend and be present at the Court, and at all times appointed by the Court for adjournment, and any person present in Court who being called to serve as a juror, refuses, without reasonable excuse, so to serve until discharged by the court, shall be liable to a fine not exceeding 100 penalty units. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (22)]

Section 223—Punishment, Summary: How Enforced, Court may Remit Fines.

(1) Such punishments may be inflicted summarily on an order to that effect by the Court, and any fine imposed shall be recoverable by distress and sale of the movable and immovable property of the person fined, by warrant of distress to be signed by the Registrar of the Court, which warrant shall be issued by the Registrar, without further order of the Court, if the amount of the fine is not paid within six days of being imposed, if imposed in the presence of the person fined, or within six days of its having come to his knowledge by notice or otherwise that the fine has been imposed, if imposed in his absence.

(2) In default of the recovery of the fine by such distress and sale, the person fined may be imprisoned for the space of twenty one days, if the fine be not sooner paid.

(3) The Court may, if it thinks fit, remit any fine so imposed.

Section 224—Notice to Persons Fined in Absence.

In cases where any person is so fined in his absence the Registrar shall forthwith send him a written notice of the fact, requiring him to pay the fine, or to show cause before the Court within four days for not paying it.

Section 225—Travelling Allowance for certain Jurors.

Any person summoned on a jury who resides more than four miles from the place to which he is summoned shall be entitled to be paid as travelling allowance such sum as the Court thinks fit.

Section 226—Court may Exempt Person from Serving.

Nothing herein contained shall prevent the Court from exempting any person from serving as a juror at any sessions, or on any trial for reasonable cause; a certificate bearing the signature of a registered medical practitioner setting out that any person required to attend as a juror is unable

from the state of his health to do so, may, on the Court being satisfied of the signature of the certificate, be received as prima facie evidence of reasonable cause.

#### Qualifications and Attendance of Assessors

##### Section 227—Qualifications of Assessors.

(1) Every male person between the ages of twenty-five and sixty years who is resident in Ghana and can understand the English language shall be liable to serve as an assessor in trials on indictment of criminal cases.

(2) The exemptions from liability to serve as jurors and the disqualifications shall apply to assessors in like manner as to jurors.

##### Section 228—Sheriff or Deputy Sheriff to Summon Assessors.

(1) The Sheriff or the Deputy Sheriff, before the sitting of a Court to try criminal cases on indictment shall, on receiving from the Court a precept, issue summonses requiring the attendance thereof of such number of persons qualified to serve as assessors as the Court may require. Every such summons shall be served in the manner and within the time prescribed by section 217.

(2) Where a panel has been formed under section 214 the persons so summoned shall be persons included as assessors in that panel.

##### Section 229—Sheriff or Deputy Sheriff to Deliver Paper to Court.

The Sheriff or the Deputy Sheriff shall cause to be delivered to the Court issuing the precept a paper setting forth the names, occupations, and places of abode of the persons so summoned.

##### Section 230—Application of Sections to Assessors.

The provisions of sections 222, 223 and 224 (relating to punishment for non-attendance of jurors) and 226 (relating to exemption from service as jurors) shall apply to assessors in like manners as to jurors.

#### Arraignment: Supplementary Provisions

##### Section 231—Accused to be Unfettered.

The accused person to be tried upon an indictment shall be placed at the bar of the Court unfettered, unless the Court shall see cause otherwise to order.

##### Section 232—Separate Trial and Postponement of Trial.

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

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

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

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

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

(a) if the order is made during a trial with a jury or during a trial with assessors the Court may order that the jury or the assessors be discharged from giving a verdict or opinions, as the case may be, on the count or counts the trial of which is postponed, or on the indictment as the case may be; and



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

(c) the Court may make such order as to admitting the accused to bail, and as to the enlargement of recognizances and otherwise as the Court thinks fit.

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

**Section 233—Indictment not to be held Insufficient for certain Omissions.**

No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for omitting to state the time at which the offence was committed, nor for stating the time imperfectly, nor for stating the offence to have been committed on a date subsequent to that of the indictment, or on an impossible day, or on a day that never happened, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the time, value, or price, or the amount of damage, injury, or spoil is not of the essence of the offence.

**Section 234—Quashing Indictment.**

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

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

**Section 235—Procedure in Case of Previous Convictions.**

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

(a) the part of the indictment stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the indictment unless and until he has either pleaded guilty to or been convicted of the subsequent offence;

(b) if he pleads guilty to or is convicted of the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the indictment;

(c) if he answers that he has been previously convicted, the Court may proceed to pass sentence on him accordingly, but if he denies that he has been previously convicted, or refuses to or does not answer the question, the jury, or the Court and the assessors, as the case may be, shall then hear evidence concerning the previous conviction; in such case it shall not be necessary to swear the jurors again.

**Section 236—Plead of "not guilty".**

Every accused person, upon being arraigned upon any indictment, by pleading generally thereto the plea of "not guilty" shall, without further form, be deemed to have put himself upon the country for trial.

**Section 237—Plead of Autrefois Acquit and Autrefois Convict.**

(1) An accused may, upon indictment, plead—

(a) that he has been previously convicted or acquitted, as the case may be, of the same offence; or

(b) that he has obtained the President's Pardon for his offence.

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

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

(4) Nothing in this section shall prevent an accused who has pleaded "not guilty" from raising any matter by way of defence.

**Section 238—Refusal to Plead.**

If any accused being arraigned upon, or charged with, any indictment, stands mute of malice, or neither will, nor by reason of infirmity can answer directly to the indictment, the Court, if it thinks fit, may cause a plea of "not guilty" to be entered on behalf of the accused, and the plea so entered shall have the same force and effect as if the accused had so pleaded; or else the Court shall thereupon proceed to try or, if the case is triable by jury under section 242 or 245 cause a jury to be empanelled to try whether the accused be of sound or unsound mind, and if he is found of sound mind shall proceed with the trial, and if he is found of unsound mind, and consequently incapable of making his defence, shall proceed in the manner provided by section 133 which shall apply accordingly.

Section 239—Plea of "guilty".

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

(2) Where an accused is arraigned on an indictment for any offence and can lawfully be convicted on the indictment of some other offence not charged in the indictment, he may plead "not guilty" of the offence charged in the indictment but "guilty" of the other offence, and upon the plea of guilty the Court may, with the consent of the prosecution, acquit the accused of the offence with which he is charged and record the plea of guilty to the other offence.

Section 240—Proceedings After Plea of "not guilty".

(1) If the accused pleads "not guilty", or if a plea of "not guilty" is entered, the Court shall proceed to choose jurors or assessors, as hereinafter directed, and to try the case.

(2) Subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused successively as the Court thinks fit.

Section 241—Power to Postpone or Adjourn Proceedings.

(1) If, from the absence of witnesses or any other reasonable cause to be recorded in the proceedings, the Court considers it necessary or advisable to postpone the commencement of or to adjourn any trial, the Court may from time to time postpone or adjourn it on such term as it thinks fit for such time as it considers reasonable, and may by warrant remand the accused to some prison or other place of security.

(2) During a remand the Court may at any time order the accused to be brought before it.

(3) The Court may on a remand admit the accused to bail.

Mode of Trial

Section 242—Trial by Jury where Charge not Capital.

(1) The Minister may by legislative Instrument appropriate any offence or class of offences to be tried with a jury. Such instruments may apply to trials taking place in a particular Region, area, or place, or generally throughout the jurisdiction of the Court, and any person charged with an offence directed by any such instrument to be tried with a jury shall be so tried accordingly.

(2) Upon the application of the accused or the Attorney-General the Court may, if it thinks that the ends of justice would be served by doing so, direct that the accused be tried with assessors instead of a jury, and on such order being made the accused shall be tried by the Court with assessors accordingly.

Section 243—Trial by the Court with Assessors.

(1) Any person charged with an offence not triable by a jury under section 245, and not directed to be tried by a jury under section 242, shall, subject to subsection (2), be tried by the Court with assessors.

(2) In any such case, the Court before which the trial is held may (for reasons to be stated in the minutes) direct that the accused shall be tried with a jury.

Section 244—Composition of Jury.

In cases tried with a jury the trial shall be with a jury of seven persons.

Section 245—Capital Cases.

Trials for all offences punishable by death shall be with a jury in accordance with section 244.

Trial with a Jury

Section 246—Names of Jurors to be Drawn from Ballot Boxes.

At the sitting of the Court to try criminal cases triable by jury the names of all the jurors summoned shall be written on separate pieces of card or paper of equal size and put into a box; and, whenever a jury is required, the Registrar or other officer of the Court shall, in open Court, draw from the box by lot until the required number of jurors appear, who, after all just cause of challenge allowed, remain as fair and indifferent; and this shall be done whenever it is necessary to form a new jury.

Section 247—Provision for New Jury whilst Jurors whose Names Already Drawn are Deliberating.

If a case be brought on for trial during the time that a jury in any other case is deliberating, a new jury may be drawn from the residue of the cards in the box.

Section 248—Deficiency of Jurors, Tales de Circumstantibus.

Whenever there is a deficiency of jurors, or when the number of trials before the Court renders the attendance of one set of jurors for the whole of any session oppressive, the Court may issue fresh precepts, if necessary, and, subject to all rights of challenge, to put upon the jury so many men of the bystanders as shall be sufficient to make up the full number thereof, and it shall not be an objection to any such talesman that his name is not upon any jurors list.

Section 249—Warning Accused to Challenge.

When the jurors are ready to be sworn, the Registrar or other officer of the Court shall address the accused person as follows: "The jurors who are to try you are now about to be sworn; if you object to any of them, you must do so as they come to the book to be sworn, and before they are sworn, and you shall be heard."

Section 250—Peremptory Challenge.

There shall be no challenge to the array, but every accused either personally or by his counsel shall be allowed to challenge three of the jurors by way of peremptory challenge without assigning cause therefor.

Section 251—Challenges for Cause.

Challenges for cause shall be allowed on any of the following grounds—

(a) presumed or actual partiality or prejudice in the juror, as standing in the relation of husband, wife, master or servant, landlord or tenant, to the person accused, or to the person supposed to have been injured or affected by the acts complained of, or to the person on whose complaint the prosecution was instituted; being in the employment of any such person being plaintiff or defendant against any such person in any civil suit, or having complained against or having been accused by any such person in any criminal prosecution, or entertaining prejudiced views on the case to be tried;

(b) some personal cause, as infancy, old age, deafness, blindness, infirmity, or ill-health;

(c) that the juror has been convicted for perjury or other offence, disqualifying him from acting as a juror;

(d) that the juror does not understand the English language.

Section 252—Trial of Challenges for Cause.

Every challenge for cause, if objected to by the opposite party, shall be tried and determined by the Court without a jury and the person challenged shall be examined on oath, and shall be required to answer on oath all lawful questions relating to the trial of the challenge.

Section 253—Foreman of Jury.

(1) When the jurors have been chosen they shall be sworn.

(2) When the jurors have been sworn they shall appoint one of their number to be foreman.

(3) If a majority of the jury do not, within such time as seems reasonable, to the Court, agree in the appointment of a foreman, he shall be appointed by the Court.

Section 254—Duty of Foreman.

The foreman shall preside at the meetings of the jury for consideration and ask any information from the Court that is required by the jury or any of the jurors.

Section 255—Giving the Accused in Charge.

The jury having been sworn to give a true verdict according to the evidence upon the issues to be tried by them, and having elected a foreman, the proper officer of the Court shall inform them of the charge set forth in the indictment, and of their duty as jurors upon the trial.

#### Section 256—Illness of Accused.

If during a trial the accused in the opinion of the Court becomes incapable, through sickness or other sufficient cause, of remaining at the bar, the court may discharge the jury and adjourn the trial.

#### Section 257—In Absence of Juror Trial may be Postponed, or Fresh Jury Called.

If in the course of a trial, at any time prior to the delivery of the verdict, any juror from any sufficient cause is prevented from attending through the trial, or from further attendance at the time, or if any juror absents himself, and his further attendance cannot be immediately enforced, the Court may postpone the trial till the juror can attend, if within a reasonable time; or, if the attendance of the juror cannot be procured within a reasonable time, the Court may direct that a juror shall be added, and the jury re-sworn, or that the jury shall be discharged, and a new jury empanelled, and in either of the latter cases the trial shall commence anew.

#### Section 258—When Jury to be Kept Together.

(1) It shall not be necessary in any case to keep the jury together during any adjournment previous to the close of the Judges' summing up; but the Court may, if it appear to it to be advisable in the interest of justice in any trial, require the jury to be kept together during any adjournment.

(2) When the jury have retired to consider their verdict the Court may give such directions as it may think fit with respect to their accommodation, custody, and refreshment.

#### Section 259—Jurors to Attend Adjournment.

If a trial is adjourned, the jurors shall be required to attend at the adjourned sitting and at every subsequent sitting until the conclusion of the trial.

#### Trial with Assessors

##### Section 260—Selection of Assessors.

(1) If the trial is to be held with the aid of assessors, the Judge shall select from the persons summoned to act as assessors such number, not being ordinarily less than three, as he shall think fit to assist him in such trial.

(2) The persons charged may object to any assessors so appointed and the Court shall refuse to allow any such assessor to sit if the grounds for such objection are substantial and reasonable.

##### Section 261—Decision of Court and Assessors to have same Effects as Finding of Jury.

Upon every such trial the decision of the Judge with the aid of the assessors, as to all matters arising thereupon, which in the case of a trial by jury would be left to the decision of the jurors, shall have the same force and effect as the finding or verdict of a jury thereon.

##### Section 262—If any Assessor unable to Attend Trial may Proceed.

(1) If in the course of a trial with the aid of assessors, at any time prior to the finding, any assessor from any sufficient cause is prevented from attending throughout the trial, the trial shall proceed with the aid of the remaining assessors.

(2) If two or more assessors are prevented from attending or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

##### Section 263—Adjournment.

(1) The Court may in its discretion from time to time adjourn the trial, if necessary.

(2) In the event of adjournment the assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting till the conclusion of the trial.

##### Section 264—Decision.

(1) the opinion of each assessor shall be given orally, and shall be recorded in writing by the Court, but the decision shall be vested exclusively in the Judge.

(2) Any assessor dissenting from any decision of the Court may have his dissent and the grounds thereof recorded in the minutes.

#### Case for the Prosecution

##### Section 265—Opening of Case for Prosecution.

When in the case of trial before a Judge with assessors the accused has pleaded to the indictment or, in the case of trial by jury, the accused has been given in charge of the jury, counsel for the prosecution shall open the case against the accused and shall call witnesses and adduce evidence in support of the charge.

#### Section 266—Additional Witnesses for Prosecution.

(1) If the Attorney-General is of opinion that there is in any case committed for trial any material or necessary witness other than those mentioned in the summary of evidence, the Attorney-General may call the witness before the trial Court upon giving to the Registrar of the Court and to the accused notice of his intention to do so together with a summary of the evidence to be given by the witness.

(2) The Court shall determine what notice is reasonable, regard being had to the time when and the circumstances under which the prosecution became acquainted with the nature of the witness's evidence and determined to call him as a witness.

(3) No such notice need be given if the prosecution first became aware of the evidence which the witness could give on the day on which he is called.

(4) Where in pursuance of section 121 a medical practitioner's or analyst's report has been tendered as evidence at the preliminary hearing it shall not be necessary for the prosecution to give notice to the accused of its intention to call the writer of the report as a witness.

#### Section 267—Repealed.

Repealed by N.R.C.D. 324.

#### Section 268—Police Statement.

(1) At any time before, or during the course of, the trial, the accused may require the police to deliver to him a copy of a statement taken by them from any person who is either listed in the summary of evidence or in any supplementary summary or is actually called upon as witness.

(2) If a witness is cross-examined at the trial on behalf of the accused on any part of the witness's statement to the police the prosecution may furnish the Court with a copy of the statement which shall become part of the record of the trial.

(3) The statement shall not thereby become evidence of any facts alleged therein but the judge and jury may take it into account in judging the credibility of the witness on his evidence as a whole and the prosecution and defence shall be entitled to refer to it in examining or cross-examining any witness and in addressing the Court.

#### Section 269—Proof of Statement of Accused in Lower Court.

(1) The statement of the accused duly recorded by or before the committing Court and whether signed by the accused or not, may be given in evidence without further proof thereof by the prosecution unless it is proved that the Magistrate purporting to sign it did not in fact sign it.

(2) Where the prosecution does not put in the statement, the Judge, on the application of the defence, may order the statement to be read at the conclusion of the prosecution evidence as part of the prosecution case.

#### Section 270—Repealed.

Repealed by N.R.C.D. 324.

#### Section 271—At Conclusion of Prosecution Case, Judge may Consider if there is a Case to answer.

The Judge may consider at the conclusion of the case for the prosecution whether there is any case for submission to the jury, and if the Judge is of opinion that there is no evidence that the accused has committed any offence of which he could be lawfully convicted on the indictment upon which he is being tried, the Judge shall forthwith direct the jury to enter a verdict of not guilty and shall acquit the accused.

#### Case for the Defence

#### Section 272—At close of prosecution case, Judge to inform undefended accused of his rights.

(1) At the close of the evidence for the prosecution and after the statement of the accused person before the committing Court has been given in evidence the Court shall in cases where the accused is not defended by counsel inform him of his right to address the Court, to give evidence on his own behalf or to make an unsworn statement and to call witness in his defence and in all cases shall require him or his counsel to state whether it is intended to call any witnesses as to fact other than the accused person himself.

(2) Upon the accused being so informed the Judge shall record the fact and shall then observe the appropriate procedure set out in section 273.

Section 273—Procedure to be Followed where Accused is undefended.

(1) Where the accused person is not defended by counsel and states that he does not intend to call any witness as to the facts except himself, the Court shall forthwith call upon the accused to make his statement or say nothing or give evidence on oath as to the facts, and after his cross-examination (if any) he shall be permitted to address the Court if he so desires and to call any witnesses as to character.

(2) Where the accused is not defended by counsel but states that he intends to call witnesses other than himself, the Court shall call upon him to open his case.

(3) At the conclusion of the evidence for the defence the accused shall be permitted to sum up his case to the Court and counsel for the prosecution shall be entitled to reply.

Section 274—Where Accused is Defended.

(1) Where the accused is defended by counsel who states that no witness as to the facts will be called except the accused, the Court shall require the accused to make his unsworn statement or give his evidence, as the case may be. Thereafter counsel for the prosecution may address the Court and counsel for the defence may reply and shall then call his witness (if any) as to the character of the accused.

(2) Where the accused is defended by counsel who states that he intends to call witnesses other than the accused, the Court shall call upon the accused's counsel to open his case; and at the conclusion of the evidence for the defence, counsel for the accused may address the Court and counsel for the prosecution may reply.

(3) In any case where two or more accused are jointly tried and some accused are defended by counsel and others are not, the Court shall for the purpose of procedure deem all the accused to be defended by counsel.

Section 275—Additional Witnesses to the Defence.

(1) The accused person shall be allowed to examine any witness, although not previously bound over to give evidence and shall if he apprehends that the witness will not attend the trial voluntarily, be entitled to apply for the issue of process to compel the witness's attendance.

(2) No accused person shall be entitled to any adjournment to secure the attendance of any witness unless he shows that he could not by reasonable diligence have taken earlier steps to obtain the presence of the witness.

Section 276—Evidence by Prosecution in Rebuttal.

(1) At the close of the evidence for the defence, or, where it is sought to rebut evidence of good character, after evidence of good character has been given, the Court may, in its discretion, on the application of counsel for the prosecution, grant him leave to call evidence to disprove any new facts set up by the defence.

(2) Where such evidence in rebuttal is given, counsel for the defence shall be entitled to comment on the evidence so given.

Close of Hearing In Trials by Jury

Section 277—Summing up by Judge.

When, in a trial before a jury, the case on both sides is closed, the Judge shall, if necessary, sum up the law and evidence in the case.

Section 278—Duty of Judge.

(1) In such cases it is the duty of the Judge—

(a) to decide all questions of law arising in the course of trial, and especially all questions as to the relevancy of facts which it is proposed to prove and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties, and, in his discretion, to prevent the production of inadmissible evidence whether it is not objected to by the parties;

(b) to decide upon the meaning and construction of all documents given in evidence at the trial.

(c) to decide on all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(d) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(2) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact or upon any question of mixed law and fact relevant to the proceedings.

#### Section 279—Duty of Jury.

It is the duty of the jury—

(a) to decide which view of the facts is true and then to return the verdict which, under such view, ought, according to the direction of the Judge, to be returned;

(b) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense, which it may be necessary to determine, whether such words occur in documents or not;

(c) to decide all questions which according to law, are to be deemed questions of fact;

(d) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

#### Section 280—Jury to Consider their Verdict.

(1) After the summing up, the jury shall consider their verdict, and for that purpose may retire.

(2) Except with the leave of the Court, no person other than a juror shall speak to or hold any communication with any member of the jury while the jury are considering their verdict.

#### Section 281—Delivery of Verdict.

When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or that they are not unanimous.

#### Section 282—Procedure where Jury Differ.

(1) If the jury are not unanimous, the Judge may require them to retire for further consideration.

(2) After such period as the Judge considers reasonable, the jury may deliver their verdict, or state that they are not unanimous.

#### Section 283—Verdict on Each Charge.

(1) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

(2) Such questions and the answers to them shall be recorded.

#### Section 284—Amending a Verdict.

When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

#### Section 285—Action on Verdict.

(1) When the jury are unanimous in their opinion, the Judge shall give judgment in accordance with that opinion.

(2) If the accused is found not guilty, the Judge shall record a judgment of acquittal.

(3) If the accused person is found guilty, the Judge shall pass sentence on him according to law.

(4) If the jury are not unanimous in their opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Provided that a verdict of a majority of not less than five to two shall, in request of an offence which is not punishable by death, be held, taken to be, and received by the Court as the verdict of the whole jury.

#### Section 286—Retrial of Accused after Discharge of Jury.

Whenever the jury is discharged, the accused person shall be detained in custody or released on bail, as the case may be, and shall be tried by another jury.

#### In Cases Tried with Assessors.

#### Section 287—Delivery of Opinion by Assessors.

(1) When, in a case tried with assessors, the case on both sides is closed, the Judge may sum up the evidence for the prosecution and the defence, and shall then require each of the assessors to state his opinion orally, and shall record their opinions.

(2) The Judge shall then give judgment, and in so doing shall not be bound to conform with the opinion of the assessors, but he shall record his judgment in writing and in every case the judgment shall contain the point or points for determination, the decision thereon and the reasons for the decision, and shall be dated and signed by the Judge at the time of pronouncing it.

(3) If the accused is convicted, the Judge shall pass sentence on him according to law.

#### Passing Sentence

##### Section 288—Calling on the Accused.

If the jury find the accused guilty or if the Judge sitting with assessors convicts the accused, or if the accused pleads guilty, it shall be the duty of the Registrar or other officer of the Court to ask him whether he has anything to say why sentence should not be passed upon him according to law, but the omission so to ask him shall have no effect on the validity of the proceedings.

##### Section 289—Motion in Arrest of Judgment.

(1) The accused may, at any time before sentence, whether on his plea of guilty or otherwise, move in arrest of judgment on the ground that the indictment does not, after any amendment which the Court has made and had power to make, state any offence which the Court has power to try.

(2) The Court may, in its discretion, either hear and determine the matter during the same sitting, or adjourn the hearing thereof to a future time to be fixed for that purpose.

(3) If the Court decides in favour of the accused he shall be discharged from that indictment, but such discharge shall not operate as a bar to any subsequent proceedings against him on the same facts.

##### Section 290—Sentence.

If no motion in arrest of judgment is made, or if the Court decides against the accused upon such motion, the Court may sentence the accused at any time during the session.

##### Section 291—Power to Reserve Decision on Question Raised at Trial.

The Court before which any person is tried for an offence may reserve the giving of its final decision on questions raised at the trial, and its decision whenever given shall be considered as given at the time of trial.

##### Section 292—Objections Cured by Verdict.

No judgment shall be stayed or reversed on the ground of any objection, which if stated after the indictment was read over to the accused, or during the progress of the trial, might have been amended by the Court, nor because of any error committed in the summoning or swearing the jury or any of them; nor because any person who has served upon the jury was not qualified to sit as a juror, nor because of any objection which might have been stated as a ground of challenge of any of the jurors, nor for any informality in swearing the witnesses or any of them.

##### Section 293—Evidence for Arriving at a Proper Sentence.

The Court may before passing sentence, receive such evidence as it thinks fit, in order to inform itself as to the sentence proper to be passed.

#### PART VI—PUNISHMENTS

##### Different Kinds of Punishment

##### Section 294—Different Kinds of Punishment.

The following punishments may be inflicted for offences:

- |                   |                                      |
|-------------------|--------------------------------------|
| (1) Death;        | (4) Fine                             |
| (2) Imprisonment; | (5) Payment of compensation;         |
| (3) Detention;    | (6) Liability to police supervision. |

##### Section 295—Death Sentence not to be Pronounced on Juvenile.

(1) [Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(a)]

##### Section 296—General Rules for Punishment.

(1) Where a crime is declared by any enactment to be a first degree felony and the punishment for the crime is not specified, a person convicted thereof shall be liable to imprisonment for life or any lesser term.



(2) Where a crime, not being a crime mentioned in sub-section (5), is declared by any enactment to be a second degree felony and the punishment for the crime is not specified, a person convicted thereof shall be liable to imprisonment for a term not exceeding ten years.

(3) Where a crime is declared by any enactment to be a felony without specifying whether it is a first or second degree felony and the punishment for the crime is not specified it shall be deemed to be a second degree felony.

(4) Where a crime, not being a crime mentioned in sub-section (5), is declared by any enactment to be a misdemeanour and the punishment for the crime is not specified, a person convicted thereof shall be liable to imprisonment for a term not exceeding three years.

(5) A person convicted of a crime under any of the following sections of the Criminal Code, 1960 (Act 29) that is to say, sections 124, 128, 131, 138, 140, 145, 152, 154, 158, 160, 165, 239, 252, 253 and 260 shall be liable to imprisonment for a term not exceeding twenty-five years.

(6) A term of imprisonment shall be with hard labour unless, in the case of a sentence of less than three years, the Court otherwise directs.

#### Section 297—Rules Relating to Fines.

(1) Where a person is convicted of any felony or misdemeanour or any offence punishable by imprisonment (other than an offence for which the sentence is fixed by law) the Court may, in its discretion, sentence him to a fine in addition to or in lieu of any other punishment to which he is liable.

(2) Where the amount of the fine which a person may be sentenced to pay upon conviction is not expressly limited, the amount of fine shall, subject to any limitations on the powers of the Court, be in the discretion of the Court, but shall not be excessive.

(3) Where a person convicted of any offence is sentenced to pay a fine the Court may direct that if he fails to pay it within the time appointed for payment (which may be either forthwith or within a specified time, as the Court thinks fit) he shall suffer imprisonment until it is paid. Such imprisonment shall be in addition to any imprisonment to which is sentenced for his offence; and, in the case of a felony or misdemeanour, shall not exceed. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (23)]

(4) In any case where a fine has been imposed, either by a Court exercising summary jurisdiction or at a trial on indictment, if, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

#### Section 298—Consequences of Imprisonment for Three Years or More.

(1) If a person convicted of an offence, and is sentenced to imprisonment for three years or more, the following consequences shall ensue, unless the Court otherwise orders—

(a) any public office held by him within the jurisdiction of the Court shall forthwith become vacant; and

(b) any pension, superannuation allowance, or emolument payable to him out of the public revenues or out of any public fund, or chargeable on any rate or tax, and any accruing right to any such pension, allowance, or emolument, shall determine and be forfeited from the date of the conviction.

(2) None of the consequences mentioned in this section shall ensue in the case of a person who, at the time of committing the crime of which he is convicted, was a juvenile. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (1)]

(3) In case the person receives a pardon, he shall thereby, unless the pardon otherwise directs, be relieved from all the consequences mentioned in this section, except as to any office of employment which, having been vacated under the provisions of this section, has been filled up before he receives the pardon.

#### Section 299—Recognizance for Keeping the Peace.

The Court before which a person is convicted of any offence (other than an offence for which the sentence is fixed by law) may, if it thinks just, according to the circumstances of the case, order that, in lieu of or in addition to any other punishment, he enter into his own recognizance, with or

without sureties, for keeping the peace and being of good behaviour; and that, in default of such recognizance or sureties, he be imprisoned, in addition to the term, if any, of imprisonment to which he is sentenced, for any term not exceeding six months nor exceeding the term for which he is liable to be imprisoned for the offence of which he is convicted or, if no term of imprisonment is specified for the offence which he is convicted, for a term not exceeding two months.

#### Section 300—Previous Convictions.

(1) Where a person, having been convicted of a crime, is again convicted of a crime he shall be liable to increased punishment in the cases and manner provided in the Table annexed to this section and the notes thereto or to a period of detention in this Act called "preventive custody", under Part XIII of this Code.

(2) Nothing in this section, or in the said Table, shall exempt a person from any liability to which he may be subject under any enactment, to death or to any greater or other punishment than the punishment mentioned in the said Table, and any different punishment to which he is liable may be inflicted in addition to the punishments mentioned in the said Table.

(3) Nothing in this section, or in the said Table, shall apply to libel, or to any act which is a crime on the ground of negligence.

(4) [Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(a)].

#### TABLE

##### Scale of Increased Punishments for Repetition of Crime

Nature of Conviction	Nature of previous convictions	Punishment to be substituted for the punishment prescribed
----------------------	--------------------------------	------------------------------------------------------------

Summary conviction for crime.	Any conviction for a similar crime.	Twice the maximum imprisonment and twice the maximum fine which might otherwise be inflicted.
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Conviction for misdemeanour	A conviction for a similar misdemeanour; or for a similar felony; or two summary convictions for similar crimes.	Imprisonment for five years in the discretion of the Court.
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Conviction for second degree felony.	A conviction for any felony; or a conviction for a similar misdemeanour for which a sentence of more than six months' imprisonment was passed.	Imprisonment for fourteen years; and, if the Court so directs, police supervision for not more than five years.
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#### Notes to the above Table

(1) In this Table, and in the notes thereto, expressions referring to any crime include attempts to commit and abetments of such crime.

(2) Where a person has, in any part of the Commonwealth beyond the jurisdiction of the Courts, been convicted of felony, or has, within the jurisdiction of the Courts, been convicted of felony committed or commenced before the commencement of this Code, such conviction shall have the same effect as if it had taken place under this Code.

(3) Any crime which is punishable under a Chapter of the Criminal Code is similar to every other crime punishable under the same Chapter. A crime punishable under Chapters 2, 3 and 4 of Part II of the Criminal Code is similar to every other crime punishable under the same Chapters. A crime punishable under Chapters 1 and 2 of part III of the Criminal Code is similar to every other crime punishable under either of those Chapters. In any other case the question whether one crime is similar to another is a question of law to be decided by the Court.

#### Section 301—Sentences to be Consecutive unless the Court Otherwise Directs.

Where a person after conviction for a crime is convicted of a different crime, either before sentence is passed upon him under the first conviction or before the expiration of that sentence, any sentence which is passed upon him under the subsequent conviction, shall be executed after the expiration of the former sentence, unless the Court directs that it shall be executed concurrently with the former sentence or any part thereof.

#### Section 302—When an Act Constitutes Several Crimes, or when Several Acts are done in Execution of One Criminal Purpose.

With respect to cases where one act constitutes several crimes or where several acts are done in execution of one criminal purpose, the following provisions shall have effect—

(a) Where a person does several acts against or in respect of one person or thing, each of which acts is a crime, but the whole of which acts are done in execution of the same design, and, in the opinion of the Court before which the person is tried, form one continuous transaction, the person may be punished for the whole of such acts as one crime, or for any one or several of such acts as one crime, and all the acts may be taken into consideration in awarding punishment, but he shall not be liable to separate punishments as for several crimes; and

Where one act constitutes several crimes.

(b) If a person by one act assaults, harms, or kills several persons, or in any manner causes injury to several persons or things, he shall be punishable only in respect of one of the persons so assaulted, harmed, or killed, or of the persons or things to which injury is so caused, but in awarding punishment the Court may take into consideration all the intended or probable consequences of the crime.

Illustrations

Subsection (1) (a) A. steals his master's money, and, in order to escape detection, falsifies the accounts kept by him for his master.

Here A. ought not to be punished both under section 124 and also under section 140 of the Criminal Code; but the Court may, in awarding punishment for the stealing, take into consideration the falsification, or vice versa.

(b) A. assaults B. and strikes him ten blows in immediate succession. Here A. is not liable to be convicted of ten assaults, and sentenced to ten terms of imprisonment. But the Court may properly pass a more severe sentence than it would have passed for a single blow.

Subsection (2) (a) A signalman on a railway, by one act of negligence, causes the death of or injuries to several persons. He cannot be sentenced to several punishments in respect of the deaths of or injuries to each or several of such persons.

(b) A person by one act wilfully poisons several cattle. He cannot be separately punished for each, but the Court, in considering the amount of the punishment to be awarded, may take into consideration the number of the cattle wilfully injured or destroyed.

Section 303—Saving in Respect of Concurrent Sentences.

Notwithstanding anything in section 302 to the contrary it shall be and shall be deemed always to have been lawful for the court to pass on any person convicted (at one or more trials of any two or more offences a separate sentence in respect of any or every such offence so that, however, in those cases in respect of which the said section 302 imposes certain restrictions in regard to punishment, such separate sentences, if sentences, of imprisonment, shall run concurrently and not consecutively, and, if sentences of fines, shall not so operate as to impose the fines cumulatively.

**PART VII—PROCEEDINGS AFTER TRIAL**

Capital Sentences

Section 304—Form of Sentence of Death.

(1) Every sentence of death shall direct that the person condemned shall suffer death in accordance with the provisions of this section, but need not state the place of execution.

(2) A certificate under the hand of the Registrar that such sentence has been passed and naming the person sentenced, shall be sufficient authority for the detention of such person.

(3) The execution may be by

(a) hanging;

(b) lethal injection;

(c) electrocution;

(d) gas chamber; or

(e) any other method determined by the court. [As substituted by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (24)]

Section 305—Accused to be Informed of Right to Appeal.

When an accused person is sentenced to death the Court shall inform him of the period within which, if he wishes to appeal his appeal should be preferred.

Section 306—Where Body of Person Executed to be Buried.

The body of every person executed shall be buried in such place as the Minister shall order and the sentence of the Court shall so direct.

Section 307—Judge to Report to Minister.

As soon as conveniently may be after the sentence of death has been pronounced, if no appeal from the sentence is preferred, or, if an appeal is preferred and the sentence is confirmed, then as soon as conveniently may be after confirmation, the presiding Judge shall forward to the Minister a copy of the minutes, his notes of evidence taken and the full record of the trial, with a report in writing signed by him, containing any recommendation or observations on the case which he thinks fit to make.

Section 308—Communication of the Order of the Minister to and Recording of by Judge.

The Minister shall communicate to the Court a copy of any order the President or the Minister may make, which order, if the sentence is to be carried out, shall state the place and time where the execution is to be had, and, if the sentence is commuted into any other punishment, shall state what punishment, or, if the person sentenced is pardoned, shall state the fact.

Section 309—Form of Order.

(1) The Minister shall issue a death warrant, or an order for the sentence of death to be commuted, or a pardon, under the hand of the Minister and the presidential seal to give effect to the said decision. If the sentence of death is to be carried out the warrant shall state the place where and time when execution is to be had, and shall give directions as to the place of burial of the body of the person executed. If the sentence is commuted for any other punishment the order shall specify that punishment. If the person sentenced is pardoned the pardon shall state whether it is free, or to what conditions (if any) it is subject.

(2) The warrant may direct that the execution shall take place at such time and at such place and that the body of the person executed shall be buried at such place as shall be appointed by some officer specified in the order.

(3) The specified officer shall endorse on such warrant over his signature the place and time of execution and place of burial or some one or more of them according to the terms of the warrant.

Section 310—Warrant to be Executed by Director of Prisons or Other Officer.

Where the sentences is to be carried out at Accra, the warrant shall be directed to the Director of Prisons; and where it is to be carried out elsewhere the warrant shall be directed to such officer as the Minister may prescribe. The Director of Prisons or officer shall thereupon proceed to act in accordance with the said warrant.

Section 311—Order to be Sufficient Authority.

The warrant or order or pardon of the President under the hand of the Minister and the presidential seal shall be sufficient authority in law to all persons to whom it is directed to execute the sentence of death or the punishment awarded and to carry out the direction therein given in accordance with the terms thereof.

Section 312—Pregnant Woman Convicted of Offence Punishable with Death.

(1) Where a woman is convicted of an offence punishable by death, the court shall order that the woman be tested for pregnancy unless that court has reasonable grounds to believe that the woman is post-menopausal.

(2) If the woman tests positive for pregnancy the court shall pass on her a sentence of imprisonment for life.

(3) A pregnant woman sentenced to imprisonment for life shall be detained in place where her health needs can be met and arrangements shall be made by the prisons service in consultation with the Social Welfare Department of a District Assembly to ensure that after delivery her juvenile does not remain in prison.[As substituted by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (25), and further amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s.(1)]  
Sentences Other than Capital

### Section 313—Application.

The following provisions respecting sentences and their execution apply in the case of convictions and orders upon summary trial, as well as in the case of sentences upon trial on indictment.

### Section 313A—Pregnant Woman Convicted of a Non-capital Offence.

(1) Where a woman is convicted of a non-capital offence, the court shall order that the woman be tested for pregnancy unless the court has reasonable grounds to believe that the woman is post-menopausal.

(2) If the woman tests positive for pregnancy, the court shall pass on her a non-custodial sentence or may suspend the sentence for such period as it may determine.

(3) If the sentence is suspended, the court shall explain to the offender in ordinary language that if another offence is committed during the period of the suspension she will be liable to serve the sentence for the original offence in addition to the sentence for the new offence. [As inserted by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (26)]

### Section 314—Persons under 15 not to be Sentenced to Imprisonment.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s. 61(a)].

### Section 315—Warrants to be Issued in Respect of Sentence of Imprisonment.

(1) Where a person is sentenced to a term of imprisonment, the Court which sentenced him shall issue a warrant of commitment ordering that the sentence shall be carried out in any prison in Ghana, and the warrant shall be full authority to the police and prison officers to take, convey, and keep that person and to all other persons for carrying into effect the sentence described in the warrant.

(2) A sentence of imprisonment shall commence on and include the whole of the day on which it is pronounced.

(3) When the accused person is confined in a prison in pursuance of the warrant, the superintendent in charge of the prison shall have the custody of the warrant, and upon the release of the prisoner and shall return the warrant to the Court which issued it.

### Section 316—Persons sentenced to Fine may be Search for Money to Pay Fine.

(1) Where a Court adjudges money to be paid by an accused person, for fine, penalty, compensation, costs, or otherwise, and the person is then and there before the Court, the Court may order him to be searched and any money found on him on apprehension or when so searched or which may be found on him when taken to prison in default of payment of the sum so adjudged to be paid, may unless the Court otherwise directs, be applied towards the payment of the sum so adjudged to be paid, and the surplus, if any, shall be returned to him.

(2) The money shall not be so applied if the Court is satisfied that the money does not belong to the person on whom it was found, or that the loss of the money will be more injurious to his family than his imprisonment.

### Section 317—Levy of Fine etc. by Distress.

(1) Whenever a person has been ordered to pay any sum by way of fine, costs, compensation, or otherwise, the Court making the order may, subject to section 320 and in addition to any other powers conferred by section 318 or otherwise, take action to recover such sum by levying the same on the movable and immovable property of the person ordered to pay the same by distress and sale under a distress warrant.

(2) The wearing apparel and bedding of a person and his family, and, to the value of ₵1 million, the tools and implements of his trade, shall not be taken under a distress issued under this section. If there is sufficient movable property available to satisfy the warrant, no immovable property shall be sold. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (27)]

(3) Where a person pays or tenders to the person charged with the execution of a warrant of distress the sum mentioned in such warrant, or produces the receipt for the same of the Court issuing the warrant, and also pays the amount of the costs and charges of such distress up to the time of such payment or tender, the warrant shall not be executed.

(4) No warrant shall be issued or executed if the person ordered to pay the fine, costs, compensation, or other penalty, shall have undergone the whole of the imprisonment ordered to be suffered in default of payment.

(5) A warrant under this section may be executed within the local limits of the jurisdiction of the Court issuing the same, and it shall authorise the distress and sale of any property belonging to such person within such limits when endorsed by a Magistrate holding a Court within the local limits of whose jurisdiction such property was found.

Section 318—Suspension of Execution of Sentence of Imprisonment in Default of fine, etc.

(1) When an offender has been sentenced to a fine only and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 317, it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on a date not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been paid the Court may direct the sentence of imprisonment to be carried into execution at once, or may from time to time extend the operation of the bond for a further period of not more than fifteen days.

(2) In any case in which an order for the payment of money has been made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the Court may require the person ordered to make such payment to enter into a bond as prescribed in subsection (1) and in default of his so doing may at once pass sentence of imprisonment as if the money has not been recovered.

(3) The Court may in its discretion direct that any money to which this section applies may be paid by instalments at such times and in such amounts as the Court may deem fit; but so nevertheless that in default of payment of any such instalments as aforesaid the whole of the amount outstanding shall become and be immediately due and payable, and all the provisions of this Code and or the Criminal Code applicable to a sentence or fine and to imprisonment in default of payment thereof shall apply accordingly.

Section 319—Commitment for want of Distress.

If the officer having the execution of a warrant of distress reports that he could find no property, or not sufficient property whereon to levy the money mentioned in the warrant with expenses, the Court may by the same or a subsequent warrant commit the person ordered to pay to prison, with or without hard labour, for a time specified in the warrant, unless the money and all expenses of the distress, commitment, and conveyance to prison, to be specified in the warrant, are sooner paid.

Section 320—Commitment in lieu of Distress.

When it appears to the Court that distress and sale of property would be ruinous to the person ordered to pay the money, and his family, or (by his confession or otherwise) that he has no property whereon the distress may be levied, or other sufficient reason (recorded in the minutes) appears to the Court, the Court may, if it thinks fit, instead of or after issuing a warrant of distress commit him to prison, for a time specified in the warrant, unless the money and all expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

Section 321—Payment in full after Commitment.

Any person committed for non-payment may pay the sum mentioned in the warrant, with the amount of expenses therein authorised (if any), to the person in whose custody he is, and that person shall thereupon discharge him if he is in custody for no other matter.

Section 322—Part Payment After Commitment.

(1) If any person committed to prison for non-payment shall pay any sum in part satisfaction of the sum adjudged to be paid, the term of his imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed as the sum so paid bears to the sum of which he is liable.

(2) The officer in charge of a prison in which a person is confined who is desirous of taking advantage of the provisions of subsection (1) shall, on application being made to him by such prisoner, at once take him before a Court, and such Court shall certify the amount by which the

term of imprisonment originally awarded is reduced by such payment in part satisfaction, and shall make such order as is required in the circumstances.

Section 323—Who May Issue Warrant.

Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence or by his successor in office.

#### PART VIII—APPEALS

Appeals from District Courts

Section 324—Repealed.

Repealed by Act 372, 3rd schedule.

Section 325—Limitation

(1) Every appeal shall be entered within one month of the date of the order or sentence appealed against. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (28)]

(2) The High Court may for good cause admit an appeal though the period of limitation prescribed by this section has elapsed.

Section 326—Petition of Appeal.

(1) Every appeal shall be made in the form of a petition in writing presented by the appellant or his counsel, and every such petition shall (unless the High Court otherwise directs) be accompanied by a copy of the judgment or order appealed against.

(2) Where the appellant is represented by counsel the petition shall contain particulars of any alleged error of law or of fact on which the appellant relies.

Section 327—Appellant in Prison.

If the appellant is in prison, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the prison, who shall thereupon forward such petition and copies to the Registrar of the High Court.

Section 328—Summary Dismissal of Appeal.

(1) On receiving the petition and copy under section 326 or 327 the High Court shall peruse it and if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily.

(2) Where the appellant is not in custody no appeal shall be dismissed unless the appellant or his counsel has had a reasonable opportunity of being heard in support of the appeal.

(3) No appeal, where the appellant is in custody, shall be dismissed unless the appellant's counsel (if the Court has been notified that he has counsel) has had the opportunity of being heard.

(4) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Section 329—Notice of Time, Place and Hearing.

If the High Court does not dismiss the appeal summarily, it shall cause notice to be given to the parties or their advocates, of the time and place at which the appeal will be heard, and shall furnish the respondent with a copy of the proceedings and of the grounds of appeal.

Section 330—Power of Court.

(1) The High Court shall then send for the record of the case, if the record is not already in Court.

(2) After perusing the record and hearing the appellant or his counsel, if he appears, and the respondent or his counsel, if he appears, the Court may determine the appeal in accordance with law.

Section 331—Order of High Court to be Certified to District Court.

(1) Where a case is decided on appeal by the High Court, it shall certify its judgment or order to the Court by which the conviction, sentence, or order appealed against was recorded or passed.

(2) Every such judgment shall be recorded in writing and shall contain the point or points for determination, the decision thereon and the reason for the decision, and shall be dated and signed by the Judge at the time of pronouncing it.

(3) The Court which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court, and if necessary, the records shall be amended in accordance therewith.

Section 332—Repealed.

Repealed by Act 372, 3rd schedule.

Section 333—Further Evidence.

(1) In dealing with an appeal from a Circuit Court or a District Court the High Court, if it thinks additional evidence is necessary, shall record its reasons, and may either take such evidence itself or direct it to be taken by a Circuit Court or a District Court.

(2) When the additional evidence is taken by a Circuit Court or a District Court that Court shall certify such evidence to the High Court, which shall thereupon proceed to dispose of the appeal.

(3) Unless the High Court otherwise directs, the accused or his counsel shall be present when the additional evidence is taken.

(4) Evidence taken in pursuance of this section shall be taken as if it were evidence taken at a trial before a Circuit Court or a District Court (as the case may require).

Section 334—Repealed.

Repealed by Act 372 3rd schedule.

Section 335—Repealed.

Repealed by Act 372 3rd schedule.

Section 336—Repealed.

Repealed by Act 372 3rd schedule.

Section 337—Repealed.

Repealed by Act 372 3rd schedule.

Section 338—Repealed.

Repealed by Act 372 3rd schedule.

Section 339—Repealed.

Repealed by Act 372 3rd schedule.

#### PART IX—PROCEDURE IN JUVENILE COURTS

Section 340—Juvenile Courts.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s. 61(b)]

Section 341—Exclusive Jurisdiction and Transfer.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 342—Remission of Juvenile to Juvenile Court for Sentence.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 343—Presumption and Determination of age.

[Repealed Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 344—Remand of Juveniles.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 345—Power to Order Parent to pay fine etc. Instead of Juvenile.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 346—Methods of Dealing with Offenders.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 347—Committal to fit Persons.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 348—Duration of Probation and Supervision Orders over Juveniles Committed to Care of fit Persons.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 349—Power to Bring Before Court in Certain Cases.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 350—Approval of Children's Homes.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 351—General Provisions as to Court orders Relating to Juveniles.

Section 352—Interpretation.

In this Part—

"The Minister" means the Minister responsible for Social Welfare;

"institution" means an institution established under section 365.



### Section 353—Absolute and Conditional Discharge.

(1) Where a Court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order is not appropriate, the Court may make an order discharging him absolutely, or, if the Court thinks fit, discharging him subject to the conditions that he commits no offence during such period, not exceeding twelve months from the date of the order, as may be specified therein.

(2) An order discharging a person subject to such a condition as aforesaid is in this Part referred to as "an order for conditional discharge" and the period specified in any such order as "the period of conditional discharge".

(3) Before making an order for conditional discharge the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

(4) Where, under the following provisions of this Part, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

### Section 354—Power of Courts to make Probation Orders.

(1) Where any person is charged with an offence before a Court of summary jurisdiction or on indictment and the court thinks that the charge is proved but is of opinion that, having regard to the youth, character, antecedents, home surroundings, health or mental conditions of the offender, or to the nature of the offence or to any extenuating circumstances in which the offence was committed, it is expedient to release the offender on probation, the court may make a probation order.

(2) Before making a probation order, the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any way to comply therewith or commits another offence, he will be liable to be sentenced for the original offence.

(3) The Court shall not make a probation order where the offender is above the age of seventeen years unless the offender expresses his willingness to comply with the provisions of the order.

### Section 355—Probation Order.

(1) A probation order shall have effect for such period of not less than six months and not more than three years from the date of the order, as may be specified therein, and shall require the probationer to submit during that period to the supervision of a probation officer appointed for or assigned to the district or area in which the probationer will reside after the making of the order, and shall contain such provisions as the court considers necessary for securing the supervision of the offender, and such additional conditions as to residence and other matters as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition of the same offence or the commission of other offences.

(2) Where a probation order contains a provision as to residence, the place at which and the period for which the probationer is to reside shall be specified in the order, and where any such provision requires the probationer to reside in an institution, the period for which the probationer is required so to reside shall not extend beyond twelve months from the date of the order, and the court shall forthwith give notice of the terms of the order to the Minister.

(3) The court by which a probation order is made shall furnish two copies of the order, one copy to be given to the probationer and the other to the probation officer under whose supervision he is placed.

### Section 356—Costs, Damages and Compensation.

Where a person is absolutely or conditionally discharged or is placed by a probation order under the supervision of a probation officer, the order shall be without prejudice to the powers of the court, under any law for the time being in force, to order the offender to pay costs and such damages for injury or compensation for loss as the court may think reasonable.

### Section 357—Commission of Further Offences by Probationers, etc.

- (1) If it appears to a Judge or District Magistrate that a person in whose case a probation order or an order for conditional discharge has been made has been convicted of an offence committed during the probation period or the period of conditional discharge he may issue a summons requiring that person to appear at the place and time specified therein or may issue a warrant for his arrest.
- (2) A Magistrate shall not issue the summons except on information, and shall not issue the warrant except on information on oath.
- (3) A summons or warrant issued under this section shall direct the person so convicted to appear or to be brought before the court by which the probation order or the order for conditional discharge was made.
- (4) Where a person is convicted by a District or Juvenile Court of an offence committed during a probation period or a period of conditional discharge the Court may commit him to custody or release him on bail, with or without sureties, until he can be brought or appear before the court by which the probation order or the order for conditional discharge was made.
- (5) Where it is proved to the satisfaction of the court by which the probation order or the order for conditional discharge was made that the person in respect of whom the order was made has been convicted of an offence while the order was in force, the court may pass any sentence which it could pass if the offender had just been convicted before that court of the offence in respect of which the probation order or the order for conditional discharge was made.
- (6) Where a person in respect of whom a probation order or an order for conditional discharge has been made by a District or Juvenile Court is convicted before a Circuit Court or the High Court of an offence committed while the order was in force, the Circuit Court or High Court may pass any sentence which the court which made the probation order or the order for conditional discharge could pass if the offender had just been convicted before that court of the offence in respect of which the probation order or the order for conditional discharge was made.

Section 358—Failure by Probationer to Comply with Probation Order.

- (1) If it appears to a Judge or District Magistrate that a probationer has failed to comply with any of the provisions of the probation order, he may issue a summons to the probationer requiring him to appear at the place and time specified therein or may issue a warrant for his arrest.
- (2) A Magistrate shall not issue such a summons except on information, and shall not issue such a warrant except on information on oath.
- (3) A summons or warrant under this section shall direct the probationer to appear or to be brought before the court by which the probation order was made.
- (4) If it is proved to the satisfaction of the court by which the probation order was made that the probationer has failed to comply with any of the provisions of the probation order, then—
  - (a) without prejudice to the continuance in force of the probation order the court may impose on the probationer a fine not exceeding ten pounds; or
  - (b) the court may pass any sentence which it could pass if the probationer had just been convicted before that court of the offence in respect of which the probation order was made.
- (5) Where a court has, under the provisions of sub-paragraph (a), imposed a fine on the probationer, then, on any subsequent sentence being passed over the probationer under section 357 or this section, the imposition of the said fine shall be taken into account in fixing the amount of the said sentence.

Section 359—Probation Order, etc., Disqualification or Disability.

- (1) Where a person is convicted of an offence and is absolutely or conditionally discharged or is released under a probation order, his conviction for that offence shall be regarded for the purposes of any enactment by or under which any disqualification or disability is imposed upon convicted persons or by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after previous conviction.
- (2) If the person in respect of whom such an order has been made is subsequently sentenced for the original offence, this section shall cease to apply in respect of that offence, and he shall be deemed,

for the purposes of any such enactment imposing a disqualification or disability, to have been convicted on the date of sentence.

#### Section 360—Transmission of Documents when case is Remitted to Another Court.

Where an offender is committed, to custody or released on bail by a District or Juvenile Court until he can be brought or appear before the court which made the probation order or order for conditional discharge, the District or Juvenile Court shall transmit to the other court such particulars of the case as it thinks desirable, and where the offender has been convicted of a subsequent offence by a District or Juvenile Court, that court shall transmit to the other court a signed certificate to that effect, and for the purposes of proceedings in the court to which it is transmitted any such certificate, if purporting to be so signed, shall be admissible as evidence of the conviction.

#### Section 361—Amendment of Probation Orders.

(1) Subject to the provisions of this section, where on the application of a probationer or of the principal or other probation officer responsible for his supervision, the court which made the probation order is satisfied that the provisions of the probation order should be varied, or that any provisions should be inserted or cancelled, the court may be order amend the probation order accordingly.

(2) No order shall be made under this section reducing the period of duration of the probation order, or extending that period beyond a period of three years from the date of the probation order.

(3) An order under subsection (1) may require a probationer to reside in an institution for any period not exceeding twelve months from the date of that order, if the total period or the aggregate of the periods for which he is required to reside in any institution or institutions under the probation order does not exceed twelve months.

(4) The court, if it is satisfied on the application of the principal or other probation officer responsible for the supervision of the probationer, that the probationer has changed, or is about to change, his residence from the district or area named in the order to another district or area, shall by order vary the probation order by substituting for the reference to the district or area named therein a reference to the district or area where the probationer is residing or is about to reside, and shall transmit to the court for the new district or area all documents and information relating to the case, and thereupon the last mentioned court shall be deemed for all the purposes of this Part to be the court by which the probation order was made.

(5) An order under this section cancelling a provision of a probation order or substituting a new district or area for the district or area named therein may be made without summoning the probationer but no other order under this section shall be made except on the application or in the presence of the probationer.

(6) Where an order is made under this section for the variation, insertion, or cancellation of a provision requiring a probationer to reside in an institution, the court shall forthwith give notice of the terms of the order to the Minister.

#### Section 362—Discharge of Probation Orders.

(1) The court by which the probation order was made may, on the application of the probationer or of the principal or other probation officer, discharge the probation order, and, where the application is made by any such officer, the court may deal with it without summoning the probationer.

(2) Where an offender in respect of whom a probation order has been made is subsequently sentenced for the offence in respect of which the probation order was made, the probation order shall cease to have effect unless the court otherwise orders.

#### Section 363—Transmission of Copies of Order for Amendment or Discharge of Probation Orders.

Where an order is made for the amendment or discharge of a probation order, the clerk of the court by which the order is made shall furnish two copies of the order to the probation officer responsible for the supervision of the probationer, or in the case of an order for the discharge of a probation order, to the probation officer who was so responsible before the making of the order, one copy to be given by him to the probationer.

#### Section 364—Selection of Probation Officers.

(1) The probation officer who is to be responsible for the supervision of any probationer shall be selected by the court which makes the probation order, and if the probation officer so selected dies or is unable for any reason to carry out his duties, or if the probation committee dealing with the case considers it desirable that another officer shall take his place, another probation officer shall be selected by the court.

(2) Where a woman or girl is placed under the supervision of a probation officer, the probation officer shall be a woman.

#### Section 365—Institutions.

(1) The Minister may establish such institutions as he may deem necessary for the reception of persons placed under the supervision of probation officers.

(2) Such contributions may be made towards the establishment or maintenance of institutions as the Minister may approve.

#### Section 366—Appointments

(1) The Minister may appoint—

(a) a principal probation officer who shall organize and supervise the probation service in accordance with regulations made under this Part;

(b) a sufficient number of probation officers, qualified by character and experience to be probation officers who shall perform such duties as may be prescribed by regulations made under this Part.

(2) The Minister may appoint a probation committee or probation committees, consisting of such persons as the Minister shall think fit, who shall review the work of probation officers in individual cases and perform such duties in connection with probation as may be prescribed by regulations made under the Part.

#### Section 367—Regulations.

The Minister may by legislative instrument make regulations prescribing—

(a) the duties of the principal probation officer;

(b) the duties of probation officers;

(c) the constitution and duties of a probation committee or probation committees;

(d) the form of records to be kept under this Part;

(e) the procedure for establishing institutions for the purposes of this Part and all matters relating to the administration and maintenance of such institutions;

(f) [Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(a)].

(g) the remuneration of any person appointed to carry out any duties under this Part, and the fees and changes to be made for any act, matter, or thing under this Part to be done or observed;

(h) generally for carrying out the purposes and provisions of this Part.

#### Section 368—Delegation of Powers.

The principal probation officer may in writing delegate all or any of his powers, duties or functions in relation to any probationer, to any probation officer who is responsible for the supervision of the probationer.

#### Section 369—Contribution Towards Expenses of Residence at a Probation Home.

(1) Where a court makes a probation order under this Part requiring a person to reside at an institution, the court may further order, subject to subsection (5), that the parent, guardian or other person responsible for the juvenile shall pay to the Government such contributions towards the cost of maintaining the offender in the institution during his residence therein as the court thinks reasonable after due inquiry, and having regard to the means of the parent, guardian or other person responsible for the offender.

(2) An order under this section shall have effect from the date of the making of the probation order, or from such other date as the court in any case may direct, and shall provide for the payment of the contributions at such time and in such manner as the court may direct, throughout the period of residence in the institution.

(3) Where no order has been made under this section in respect of the maintenance of an offender in an institution, the Minister if it appears to him at any time during the period of residence in the institution that the parent, guardian or other person responsible for the offender is able to contribute

towards the cost of his maintenance in the institution may apply to the Court which made the probation order for an order for the payment of contributions in accordance with the provisions of subsections (1) and (2) and the court, in its discretion, may thereupon make such order.

(4) The Minister or any person against whom an order to contribute is made under this section may—

(a) apply at any time to court which made the order for a variation of the order,

(b) appeal against an order or against a refusal to make or to vary an order—

(i) to the High Court from an original decision of a District Court or of a Juvenile Court,

(ii) to the Court of Appeal from an original decision of a Circuit Court or the High Court

(5) No order shall be made under this section against any person unless that person has been given an opportunity of being heard by the court, and no such order shall be made against any person in his absence unless the court is satisfied that the person has first received notice of the intention to make the order.

(6) Any payment which any person is ordered to make under the section may be recovered from him by distress and sale in accordance with the provisions of this Code relating to the recovery of fines, costs or compensation.

## PART XI—INDUSTRIAL SCHOOLS AND BORSTAL INSTITUTIONS

Section 370—Minister.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Establishment and Supervision of Industrial Schools and Borstal Institutions

Section 371—Establishment of Industrial Schools and Borstal Institutions.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 372—Establishment of Remand Homes.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 373—Supervision of Schools, Remand Homes and Institutions.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 374—Visits and Inspections.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Detention in Schools and Institutions

Section 375—Power to Order Detention in a School or Institution.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 376—Contents of Detention Order.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 377—Conveyance to School or Institution.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 378—Duration of Detention Order.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 379—Extension of Period of Detention in School or Institution.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Powers of Minister to Transfer Young Offenders

Section 380—Powers of Minister to Transfer.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 381—Power to Transfer from Prison to School or Institution.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 382—Transfer of Incurrigibles to Prison.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Licence, Release, Supervision and Discharge

Section 383—Powers to Release on Licence.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 384—Supervision after Expiration of Term of Detention.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 385—Power of Minister to Discharge Young Offenders.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Offenders

Section 386—Harbouring or Concealing Young offender.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 387—Penalty for Escape or Absence from School or Institution.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 388—Powers of Magistrate to Require Production of Young Offender, etc.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 389—Penalty for Instigating Offence.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Miscellaneous

Section 390—Appointment of Officers and Employees.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 391—Expenses.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 392—Contributions by Parents, etc. of Juveniles.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

Section 393—Regulations.

[Repealed by Juvenile Justice Act, 2003 (Act 653), s.61(b)].

PART XII—RELEASE AND SUPERVISION OF CONVICTS

Section 394—Release of Convict on Licence.

(1) Whenever any convict is about to become, under any enactment for the time being regulating the remission of sentences, due for release from custody on licence, it shall be lawful for the Director of Prisons or the Prison Superintendent or other officer in charge of the prison from which the convict is to be released to issue in the name of the Minister a licence authorising such convict on becoming due for release as aforesaid to be released from custody and to be at large, subject to provisions and conditions set forth in the licence and to the provisions of this Part.

Schedule.

(2) The licence shall be in the form set forth in the First Schedule or as near thereto as possible and the provisions and conditions set forth therein and hereby declared to be of statutory force.

(3) Before releasing a convict on licence the gaoler of the prison shall explain the terms of the licence to the convict, and shall deliver the licence to him.

Section 395—Notice of Residence by Convict on Licence.

(1) Whenever any convicts has been released from custody on a convict's licence he shall within seven days of his release notify the place of his residence at the police station nearest to such residence, and shall, whenever he changes his residence within the same district, notify the change at the police station nearest to his new residence; and whenever he changes his residence from one district to another he shall notify the changes of residence at the police station nearest to his new residence which he is leaving and also at the police station nearest to his new residence.

Monthly Report by Convict on Licence.

(2) Every holder of a convict's licences shall once in each month report himself at the police station nearest to his residence at such time and in such manner as the competent police authority shall direct; and such report shall, according as such authority shall direct, be made either personally, or by letter.

Penalties.

(3) If any holder of a convict's licence who is at large in Ghana after having reported himself as required by subsection (1), remains in any place forty-eight hours without notifying the place of his residence at the police station nearest to his residence, or fails to comply with the requirements of this section as to reporting himself within seven days of his release, or as to reporting himself on the occasion of any change of residence, or as to reporting himself once in each month, he shall in every such case, unless he proves to the satisfaction of the Court before which he is tried that he did his best to act in conformity with the law, be guilty of an offence against this Part and upon

summary conviction thereof the court may in its discretion forfeit his licence whereupon the convict shall be re-committed to prison to serve a term of imprisonment equal to the residue of his term or terms of imprisonment which remained unexpired at the date of forfeiture.

**Section 396—Apprehension and Imprisonment of Convicts on Licence for Misconduct.**

Any police officer not below the rank of Assistant Superintendent of Police, or who being below that rank is authorised in writing so to do by some police officer not below that rank, may without a warrant take into custody any convict who is the holder of a convict's licence, if it appears to the police officer that the convict is getting his livelihood by dishonest means or is habitually associating with thieves or notoriously bad characters, and may bring him before a District Court for trial; and, if it appears from the facts proved before the Court that the convict so brought before him is getting his livelihood by dishonest means or is habitually associating with thieves or notoriously bad characters, the convict shall be deemed to be guilty of an offence against this Part, and his licence shall be forfeited; whereupon the convict shall be recommitted to prison to serve a term of imprisonment (with or without hard labour, as the case may be) equal to the residue of his term or terms of imprisonment which remained unexpired when his licence was granted.

**Section 397—Revocation of Convict's Licence.**

The Minister may, whenever he thinks fit, and irrespective of any provision or condition set forth in the licence revoke any convict's licence, and by notice under his hand signify to any District Magistrate that the licence has been revoked, and require the Magistrate to issue his warrant under his hand for the apprehension of the convict to whom the licence was granted; and the Magistrate shall thereupon issue his warrant accordingly. And the convict when apprehended under the warrant shall be brought before a District Magistrate; and the Magistrate shall thereupon issue his warrant under his hand for the recommitment of the convict to the prison from which he was released by virtue of the said licence; and the convict shall be so recommitted to prison to serve a term of imprisonment (with or without hard labour as the case may be) equal to the residue of his term or terms of imprisonment which remained unexpired when his licence was granted.

**Section 398—Minister's Power to Release Convict from Obligations of Convict's.**

Notwithstanding anything in this Part or in any other law to the contrary, the Minister may, whenever he, in his discretion, sees fit to do, by order under his hand release and absolve any holder of a convict's licence from any or all of the obligations and liabilities attaching to the holding of a licence; and in such case the said holder shall thereupon either become free without further restriction, or his obligations and liabilities shall become modified in accordance with the terms of the order, as the case may be.

**Section 399—Notice of Residence by Person Under Parole.**

(1) Every person ordered by the Court under the provisions of any enactment to be subject to police supervision (which person is hereinafter in this section referred to as a person on parole) who is at large in Ghana, shall within one month of his last reporting under his convict's licence notify the place of his residence at the police station nearest to his place of residence, and shall, whenever he changes his residence within the same district, notify the change at the police station nearest to his residence; and whenever he changes his residence from one district to another, he shall notify the change of residence at the police station nearest to the residence which he is leaving, and also at the police station nearest to his new residence.

**Monthly Report by Person under Police Supervision.**

(2) Every person on parole shall once in every month report himself at the police station nearest to his residence and in such manner as the competent police authority shall direct; and the report shall according as such authority shall direct be made either personally or by letter.

**Penalties.**

(3) If any person on parole is at large in Ghana after having first reported as a person on parole as provided in subsection (1), remains in any place for forty-eight hours without notifying the place of his residence at the police station nearest to his residence, or fails to comply with the requirements of this section as to reporting himself within one month of his last reporting under his convict's licence, or as to reporting himself on the occasion of any change of residence, or as to reporting

himself once in each month, he shall in every such case, unless he proves to the satisfaction of the Court before which he is tried that he did his best to act in conformity with the law, be liable upon summary conviction to be imprisoned, with or without hard labour, for any term not exceeding one year.

Resumption of Police Supervision.

(4) The prescribed period of police supervision shall recommence to run at the termination of such imprisonment.

Section 400—Production of Licence on Demand

Every holder of a convict's licence who is brought before a Court in pursuance of this Part, or who is required to produce his convict's licence by a Magistrate or competent police authority, shall produce his licence for examination; and if such licence is forfeited, he shall deliver it up altogether; and, if such person wilfully neglects or refuses to produce his licence, he shall, in addition to any other penalty to which he may be liable, be liable on summary conviction to a fine not exceeding 1 penalty unit. [As amended by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (29)]

Section 401—Notice to Police of Release of Certain Prisoners.

Whenever any convict is about to become due for release from custody on licence or is about to be otherwise released, or whenever any prisoner under sentence of imprisonment for a term of not less than three months for any offence involving fraud or dishonesty is about to become due for release from custody or is about to be otherwise released, the gaoler of the prison from which the convict or prisoner is to be released, shall (if practicable, not less than seven days) prior to the release notify in writing to the competent police authority of the locality the fact of the impending release of the convict or prisoner, a description of the convict or prisoner, and the address to which he states he is proceeding.

PART XIII—PREVENTIVE CUSTODY

Section 402—Repealed.

Repealed by Act. 192 section 4.

PART XIV—SUPPLEMENTARY PROVISIONS

Irregular Proceedings

Section 403—Proceedings in Wrong Place.

No finding, sentence, or order of any criminal Court shall be set aside merely on the ground that the enquiry, trial, or other proceedings, in the course of which it was arrived at, passed, or made, took place in a wrong district, or other local area, unless it appears that such error has in fact occasioned a substantial miscarriage of justice.

Section 404—Trial by Jury of Offence Triable by Assessors.

If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

Section 405—Trial with Assessors of Offence Triable with Jury.

If an offence triable by a Jury is tried with the aid of assessors the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

Section 406—Finding or Sentence When Reversible by Reason of Error or Omission in Charge or Other Proceedings.

(1) Subject to the provisions hereinafter contained, no finding, sentence, or order passed by a Court of competent jurisdiction shall be reversed or altered on appeal or review on account—

(a) of any error, omission, or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment, or other proceedings before or during the trial or in any enquiry or other proceedings under the Code; or

(b) of the omission to revise any list of jurors in accordance with the provisions of Part V;

(c) of any misdirection in any charge to a jury;

unless such error, omission, irregularity, or misdirection has in fact occasioned a substantial miscarriage of justice.

(2) In determining whether any error, omission, or irregularity has occasioned a substantial miscarriage of justice the Court shall have regard to the question whether the objection could and



should have been raised at an earlier stage in the proceedings.

**Section 407—Distress not Illegal nor Distrainer a Trespasser for Defect or Want of Form in Proceedings.**

No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto.

**Section 408—Error or Omission not to Affect Legality of Execution.**

The Court may at any time amend any defect in substance or in form in any order or warrant, and no omission or error as to the time and place, and no defect in form in any order or warrant given under this Code shall be held to render void or unlawful any act done or intended to be done by virtue of such order or warrant, provided that it is therein mentioned or may be inferred therefrom that it is founded on a conviction or judgment, and there is a valid conviction or judgment to sustain the same.

**Miscellaneous**

**Section 409—Repeal.**

Repealed by Act 372, 3rd Schedule

**Section 410—Copies of Proceedings.**

If any person affected by any judgment or order passed in any proceedings under this Code desires to have a copy of the judgment or order or any deposition or other part of the record, he shall on applying for such copy be furnished therewith, provided he pays for the same, unless the Court for some special reason thinks fit to furnish it free of cost.

**Section 411—Forms.**

The forms set forth in the Second Schedule to this Code, with such variation as the circumstances of each case may require, may be used for the respective purposes therein mentioned, and the same may be altered, revoked, or added to by Rules of Court.

**Section 412—Fees.**

(1) The Rules of Court committee shall by Constitutional Instrument prescribe fees to be paid in respect of processes under this Act.

(2) Rules made under subsection (1) may provide for the court to dispense with the payment of any fees under this Act where the circumstances justify dispensation. [As substituted by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (30)]

**Section 413—Repeals.**

(1) The enactments referred to in the Fifth Schedule to this Code are hereby repealed.

(2) Any regulations or other instruments made under any enactment hereby repealed shall remain in force and be deemed to have been made under the corresponding provisions of this Code.

**Section 414—Interpretation.**

In this Code, unless the context otherwise requires—

"Borstal institution" [Delated by Juvenile Justice Act, 2003 (Act 653), s.61(c)].

"competent police authority" means with respect to any particular provision of Part XII any police officer who with the sanction of the Commissioner of Police executes the duties or exercises the powers assigned to such authority under such provision;

"complaint" means the allegation that any named person has committed an offence, made before a magistrate for the purpose of moving him to issue a process under this Code;

"convict" includes (a) any male person who is serving under one or more sentences a term of imprisonment amounting to two years or upwards, and (b) any holder of a convict's licence;

"convict's licence" means a licence granted to a convict under section 394;

"District Assembly" includes Municipal and Metropolitan Assembly. [As inserted by the Criminal Procedure Code (Amendment) Act, (Act 633), s. (31)(a)]

"indictable offence" means any offence punishable on indictment;

"industrial school" [Delated by Juvenile Justice Act, 2003 (Act 653), s.61(c)].

"juvenile" [Delated by Juvenile Justice Act, 2003 (Act 653), s.61(c)].

"Magistrate" means a District Magistrate;

"Minister" means the Minister responsible for Justice;

"officer in charge of police station" includes, when the officer in charge of police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable, or when the Minister so directs, any other police officer so present;

"police officer" includes any member of the police service;

"remand home" [Delated by Juvenile Justice Act, 2003 (Act 653), s.61(c)].

"summarily", in relation to a trial, means in accordance with Part III;

"young offender" [Delated by Juvenile Justice Act, 2003 (Act 653), s.61(c)].

"young person" [Delated by Juvenile Justice Act, 2003 (Act 653), s.61(c)].

Section 415—This Code to be Construed with Criminal Code.

This Code shall be read and construed as one with the Criminal Code, 1960.

Section 416—Commencement.

This Code shall come into force on the first day of February, 1961.

Section 417—Amendment of Courts Act, 1960.

(1) Repealed by Act 272, Section 1 (b).

(2) Section 53 (3) of the Courts Act, 1960, is replaced by the following subsection—

"(3) Where under any enactment increased punishment may be imposed upon any person previously convicted of a crime a District Court may impose such increased punishment, or twice the maximum punishments prescribed by subsection (2), whichever is the lesser."

(3) Section 53 (4) of the Courts Act, 1960, is hereby repealed.

(4) Section 65 (1) of the Courts Act, 1960, is hereby amended by substituting for "sixteen" the word "seventeen".

(5) Section 146 of the Courts Act, 1960 is hereby amended by—

(a) substituting for paragraph (a) the following paragraph—

(a) to hear and determine charges under the sections of the Criminal Code shown in the Table to this section;"

(b) omitting the paragraph following paragraph (h); and

(c) substituting for the Table at the end of section 146, the following Table—

"Table referred to in paragraph (a)

74	157	234
84	72 (1) (a)	237
124	176	278
131	202-7	282-3
144	209	285-7
146	226(1) (a) and (b)	290-1
155	288	293-6
		298-303
		308
		312
		315-6"

## FIRST SCHEDULE

### CONVICT'S LICENCE

Section 394.

The President is pleased to grant to \_\_\_\_\_, who was convicted of \_\_\_\_\_, at the \_\_\_\_\_ on the \_\_\_\_\_ and was then and there sentenced to \_\_\_\_\_, and is now confined in the \_\_\_\_\_.

THIS HIS LICENCE to be, from the date of his release under the statutory provisions regulating the remission of sentences in the prisons of Ghana, at large during the residue of his term of imprisonment; unless the said

shall before the expiration of the said term be convicted within Ghana of felony or of any criminal offence involving fraud or dishonesty, in which case this licence will forthwith automatically become forfeited, or unless it shall please the President sooner to revoke the same.

This Licence is granted subject also to the conditions herein below set forth; upon the breach of any of which it will be liable to be forfeited or revoked under the provisions of Part XII.

And the Minister hereby orders that the said shall be released from custody within thirty days from the date of order.

Given in the Minister's name under my hand at , this day of , 19

Director of Prisons

(or Prison Superintendent, or Officer in Charge of the prison at )

#### CONDITIONS

1. The holder shall preserve his licence and shall produce it when required by a Magistrate or competent police authority so to do.
2. He shall comply with the provisions of Part XII, of the Criminal Procedure Code as to reporting himself.
3. He shall not get his livelihood by dishonest means, or habitually associate with notoriously bad characters.
4. If a convict's licence is forfeited, or revoked under any statutory provision other than that contained in section 395 (3) of the Criminal Procedure Code, the holder will, in addition to any other statutory penalty, serve a term of imprisonment (with or without hard labour, as the case may be) equal to the residue of his term or terms of imprisonment which remained unexpired when his licence was granted, namely,

#### ENDORSEMENT

(To be completed by the Registrar of Court by which the convict is convicted).

I do hereby certify that , the holder of this convict's licence, was on the day of , 19 , duly convicted by the at of the offence of and was thereupon sentenced to

Dated at this day of , 19

Registrar of the Court

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#### SECOND SCHEDULE

Section 411.

#### LIST OF FORMS

No.

1. Recognizance (bail, etc.).
2. Summons to show cause (s.26).
3. Warrant of arrest (s.26).
4. Warrant for removal of prisoner (s.43).
5. Complaint on oath (s.61).
6. Summons to accused (s.62).
7. Warrant to arrest (s.73).
8. Endorsement of warrant to arrest (s.74).
9. Order on keeper of prison to produce prisoner (s.86).
10. Information to ground search warrant (s.88).
11. Search warrant (s.88).
12. Summons to show cause against forfeiture of recognizance (s.104).
13. Commission for examination of witness (s.124).

14. Warrant on commitment for trial or on remand or adjournment (ss.169, 190).
  15. Statement of accused on investigation before commitment (s.187).
  16. Statement of election by accused as to trial (s. 191).
  17. Commitment of witness for refusing to enter into recognizance (s.189).
  18. Conditional recognizance (s.97(3)).
  19. Precept to Sheriff to summon jury (s.217).
  20. Sheriff's summons to juror (s.217).
  21. Warrant of commitment to undergo sentence (s.315).
  22. Gaoler's receipt for a prisoner.
  23. Warrant of distress (s.317).
  24. Warrant of commitment on default of distress or of payment (s.319).
  25. Warrant to discharge from prison.
  26. Petition of appeal (s.326).
- Sections 11, 30, 74, 84, 96 and 190.

FORM 1

(Description of Court)

Whereas [state cause of complaint with time and place].

Recognizance.

The undersigned principal party to this recognizance hereby binds himself to perform the following obligations—

To appear before Magistrate if so required.

To appear before the District Magistrate at \_\_\_\_\_ if so required.

To keep the peace or be of good behaviour.

To keep the peace (or be of good behaviour) towards all persons in Ghana for the space of \_\_\_\_\_ months.

To appear before District Court.

To appear before the District Court, \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Bail.

To appear before the Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, and on any other or subsequent day when required by the Court to answer the said charge and to be dealt with according to law.

To surrender for trial.

To attend the Sessions or the \_\_\_\_\_ Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, and there to surrender himself to the keeper of the prison at \_\_\_\_\_, and plead to any indictment filed against him, and so from day to day, and take his trial for the same, and not depart the Court without leave, and also to attend at any investigation or proceeding concerning the said charge, before the trial, when and where he may be required by the Court.

To give evidence.

To attend the Sessions or the \_\_\_\_\_ Court to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, and to give evidence at the time of the said charge, and also to attend and give evidence at any investigation or proceeding \_\_\_\_\_ concerning the said charge, before the trial, when and where he may be required by the Court.

And the said principal party, together with the undersigned sureties, hereby acknowledge themselves bound to forfeit to the Republic the sums following, viz—the said principal party the sum of \_\_\_\_\_ and the said sureties the sum of \_\_\_\_\_ each, in case the said principal party fails to perform the above obligation or part thereof.

{Principal Party (L.S.)

Signed, sealed and delivered by { \_\_\_\_\_ (L.S.)

{Sureties (L.S.)

Before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,

(Signed)

Section 26.

FORM 2

Summons to Show Cause.

IN THE DISTRICT COURT,.....

Whereas the Court has been informed on oath by A.B. of that you [insert a reference to the complaint in terms of the relevant portion of section 22 or 23, as for instance, "are likely to commit a breach of the peace].

And whereas the Court has accordingly made the order a copy of which is annexed to this summons.\*

You are hereby commanded in the name of the Republic to appear in person before this Court at on the day of , 19 , to show cause why you should not be ordered to execute a bond for keeping the peace (or to be of good behaviour).

Issued at the day of , 19 .

(Signature of Magistrate)

Section 26.

FORM 3

Warrant of Arrest to Show Cause.

IN THE DISTRICT COURT,.....

TO THE SUPERINTENDENT OF POLICE, AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Whereas the Court has been informed on oath by A.B., of ,that C.D., of , [insert a reference to the nature of the complaint as in Form 2].

And whereas the Court has accordingly made the order a copy of which is annexed to this warrant.†

You are hereby commanded in the name of the Republic forthwith to apprehend the said C.D. and produce him before this Court at .

Issued at the day of , 19 .

(Signature of Magistrate)

FORM 4

Warrant to Take Prisoner Before Another Court.

IN THE DISTRICT COURT,.....

TO THE SUPERINTENDENT OF POLICE, AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Whereas A.B. is charged with having committed the offence of [state offence] within the jurisdiction of the [describe Court to which the prisoner is being sent], and this Court has ordered that the said A.B. be sent to the said [name of Court].

You are hereby commanded in the name of the Republic to take the said A.B. before the said (name of Court), there to answer the said charge, and to be dealt with according to law.

Issued at the day of , 19 .

(Signature of Magistrate)

Section 61.

FORM 5

Compliant on Oath.

IN THE DISTRICT COURT,.....

A.B. of (being sworn), charges that C.D. [state offence with time and place where committed].

Taken and sworn at this day of , 19 ,

(Signature of Complainant)

before me,

(Signature of Magistrate)

Section 62.

FORM 6

Summons to Accused.

IN THE DISTRICT COURT,.....

To A.B., of

Whereas your attendance is necessary to answer a complaint of [state shortly the offence complained with time and place].

You are hereby commanded in the name of the Republic to appear in person before this Court at on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and on every adjournment of the Court until the case be disposed of.

Issued at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signature of Magistrate)

Section 73.

FORM 7

Warrant to Arrest Accused.

(Description of Court)

TO THE SUPERINTENDENT OF POLICE AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Whereas \_\_\_\_\_ of \_\_\_\_\_ is accused of the offence of [state the offence with time and place.]

You are hereby commanded in the name of the Republic forthwith to apprehend the said and produce him before the Court at.

Issued at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Signature of Judicial Officer)

Section 74.

FORM 8

Endorsement of Warrant to Arrest Accused for Release Under Bond.

If the said [name of accused] enters into a bond [with one or two sureties, if so required] in the sum of £ \_\_\_\_\_, for his appearance before this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and on every adjournment of the Court until the case be disposed of, you shall forthwith release him from your custody.

(Date)

(Signature of Judicial Officer)

Section 86.

FORM 9

Order on Keeper of Prison to Bring Prisoner Before Court.

(Description of Court)

To Y.Z., Keeper of the Prison at

Whereas A.B., now in your custody, has been charged before this Court for that he [state offence shortly].

You are hereby commanded to bring the said A.B. before the Court at \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ o'clock in the forenoon.

Given at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signature of Judicial Officer)

FORM 10

Information to Ground Search Warrant.

IN THE DISTRICT COURT,.....

A.B., of \_\_\_\_\_, being first duly sworn, \_\_\_\_\_ complains that on the day of \_\_\_\_\_, 19\_\_\_\_, [state briefly the offence committed or suspected to have been committed].

That he the said A.B. has reasonable ground for believing that there is in the building [or as the case may be] of C.D. [describe thing required].

That he the said A.B. deposes that [state shortly the grounds on which the warrant is applied for]

Taken and sworn at this

day of \_\_\_\_\_, 19\_\_\_\_, (Signature of person applying for warrant).

before me,

(Signature of Magistrate or Commissioner for Oaths)

Section 88.

FORM 11.

Search Warrant.

IN THE DISTRICT COURT, .....

To THE SUPERINTENDENT OF POLICE, AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Whereas A.B., of \_\_\_\_\_ has this day made information on oath—that [state substance of statements in paragraphs 2 and 3 of Form 10].

You are hereby commanded in the name of the Republic with proper assistance, to enter the \_\_\_\_\_ of C.D. aforesaid between the hours of 6.30a.m. and 6.30p.m. [state other hours, if required] and there diligently search for the said goods, and if the same or any thereof are found on search, to bring the goods so found to be dealt with according to law.

Issued at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

(Signature of Magistrate)

Section 104.

FORM 12

Summons to Show Cause Against Forfeiture of Recognizance.

(Description of Court)

To A.B., of \_\_\_\_\_

Whereas it has been proved to the satisfaction of the Court that the recognizance entered into by you on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, for the due appearance of C.D. to stand his trial [or as the case may be] has been forfeited.

You are hereby required to pay to the Registrar of this Court on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, the sum of \_\_\_\_\_ being the amount of the penalty due under the said recognizance unless you sooner appear before this Court and show cause why the same should not be paid.

Issued at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(Signature of Judicial Officer).

Section 124.

FORM 13

Commission for Examination of Witness.

IN THE HIGH COURT OF GHANA AT..... (OR IN THE..... CIRCUIT COURT)

THE REPUBLIC VERSUS A.B.

To the District Magistrate,

Whereas the examination of \_\_\_\_\_ as a witness in the above criminal cause is necessary for the ends of justice, and the attendance of the said \_\_\_\_\_ at the trial cannot be procured without an amount of delay (expense or inconvenience) which under the circumstances would be unreasonable.

You are hereby appointed to take the evidence of such witness in the manner hereinafter prescribed.

You should proceed to the place where the said \_\_\_\_\_ is or summon him before you, and after satisfying yourself that sufficient notice has been given to the parties to the proceedings, take down the evidence of the said \_\_\_\_\_

in the same manner, and may for this purpose exercise the same powers as in the case of a trial.

If any party to the proceedings forwards any interrogatories in writing which you think relevant to the issue, you should examine the said \_\_\_\_\_ upon such interrogatories.

You are further required to return this commission as soon as it has been duly executed to this Court together with the deposition of the said.

Issued at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

(Signature of Judge and Seal of Court)

Section 169 and 190.

FORM 14

Warrant on Commitment for Trial or on Remand or Adjournment.

IN THE DISTRICT COURT,.....

To THE SUPERINTENDENT OF POLICE AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

These are to command you to lodge C.D., who is accused of the offence of [state offence], in the prison at \_\_\_\_\_ there to be imprisoned by the keeper of the said prison until his trial at the next, Assizes at \_\_\_\_\_ (or until \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ when he shall have the said C.D. before [name of Court].

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Signature of Magistrate)

Section 187.

FORM 15

IN THE DISTRICT COURT

.....

(Town)

THE REPUBLIC

v

.....

Section 182.

The following question should be put to the accused by the Magistrate immediately before the commencement of the preliminary hearing, and the answer thereto noted.

Q. Have you received a copy of the bill of indictment and summary of evidence in this case?

A.

Section 184. (delete where necessary.)

PRELIMINARY HEARING

Prosecution addresses Court in explanation of the case.

Accused addresses in reply.

Counsel for accused addresses in reply.

Section 187.

The Court addresses the following words to the accused—

"Before deciding whether to commit you for trial I wish to know whether you have anything to say in answer to the charge. You are not obliged to say anything but if you have any explanation it may be in your interest to give it now.

Whatever you wish to say will be taken down in writing and if you are committed for trial it may be given in evidence. If you do not give an explanation, your failure to do so may be the subject of comment by the prosecution and be taken into account at the trial."

(See Sixth Schedule to Act 30.)

(At this stage, the Court should refer the accused to the requirements of section 131 in relation to alibis, and if necessary explain to him in simple terms the meaning of an alibi. The Court should then tell the accused that if his answer to the charge is an alibi he may give his explanation now, although he may not yet be able to name the witnesses by whom he proposes to prove it, giving notice of the witness later, within the time specified in the section.)

Whereupon accused states as follows—

(Delete if inapplicable.)

While the accused was making his statement to the Court it appeared to the Court that the said statement was inconsistent with the accused's statement made on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ (See para. 4 of Sixth Schedule to Act 30.) to the Police, which the prosecution intend to put in evidence at the trial. The Court therefore drew the attention of the accused to the inconsistency and invited him to make any correction he wished to make in his present statement. The accused thereupon stated as follows—

(Delete where necessary.)



I CERTIFY that the foregoing statement was taken down in my presence and hearing and that it contains, accurately the whole statement made by the accused. The statement has been shown to/read over to the accused who has signed it/attested it by his mark/refused to sign it or to attest it by this mark.

.....  
District Magistrate

Date.....

and

Section 191.

FORM 16

Statement of Election by Accused as to Trial.

IN THE DISTRICT COURT,.....

A.B., of \_\_\_\_\_, stands charged before the Court with [state offence]; and the said A.B., having been committed to take his trial upon indictment for the said offence, is thereupon asked by the Court whether he desires to be tried with a jury or by the Court with assessors, and the said A.B. makes answer to the said question that he desires [as the case may be.]

Taken at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

(Signature of Accused)

(Signature of Magistrate)

(Signature of Interpreter)

FORM 17

Commitment of Witness for Refusing to Enter into Recognizance.

IN THE DISTRICT COURT,.....

To THE SUPERINTENDENT OF POLICE, AND OTHER POLICE OFFICERS WITHIN THE JURISDICTION OF THIS COURT

Whereas C.D., of \_\_\_\_\_ has been charged before this Court with the offence of [state the offence]

And E.F., of \_\_\_\_\_, being in possession of evidence concerning the said charge, and being required refuses to enter into recognizance to give evidence concerning the said charge [or as the case may be.]

You are hereby commanded in the name of the Republic to lodge the said E.F. in the prison at \_\_\_\_\_, there to be imprisoned by the keeper of the said prison until after the trial of the said C.D. for the said offence, unless the said E.F. in the meantime consents to enter into such recognizance as aforesaid.

Dated at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(Signature of Magistrate)

Section 97 (3).

FORM 18

Conditional Recognizance.

IN THE DISTRICT COURT,.....

Whereas [State reasons for binding over witness conditionally].

The undersigned, \_\_\_\_\_, hereby binds himself to perform the following obligation:—

To attend the Session (or—Court) to be held at \_\_\_\_\_, on the day of \_\_\_\_\_, 19 \_\_\_\_\_, at 8.30 a.m., and there to give evidence at the time of the said charge, if notice be given to him that his attendance to give evidence is required, but not otherwise.

And the said \_\_\_\_\_ hereby acknowledges himself bound to forfeit to the Republic the sum of \_\_\_\_\_, in case the said \_\_\_\_\_ fails to perform the above obligation.

(L.S.)

Signed, sealed and delivered

Before me at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(Signature of Magistrate)

\_\_\_\_\_

Section 217.

FORM 19

Precept to Sheriff to Summon Jury.

IN THE HIGH COURT OF GHANA

(OR IN THE..... CIRCUIT COURT)

To the Sheriff.

You are hereby required to summon good men to serve as jurors at the Session (or the—Court) to be held at the Court House at on day of , 19 , at the hour of o'clock a.m.

Given at, the day of , 19 .

(Signature and seal of Judge)

Section 217.

FORM 20

Sheriff's Summons to Juror.

IN THE HIGH COURT OF GHANA

(OR IN THE..... CIRCUIT COURT)

To , of

You are hereby required to attend on the day of , 19 , at the hour of o'clock a.m., at the High Court at to serve as a juror, and to continue in attendance until discharged by the said Court from further attendance.

Given at this day of , 19 .

(Signature of Sheriff or officer executing the office of Sheriff)

Take notice that if you do not attend as above required you will be liable to be fined £25.

Section 315.

FORM 21

Warrant of Commitment to Undergo Sentence Where No Alternative Punishment.

(Description of Court)

To the Sheriff.

Whereas of was convicted before this court of the [state offence with place and date], and was sentenced to [state the punishment fully and distinctly.]

You are hereby required to lodge the said in the prison of together with this warrant, in which prison the aforesaid sentence shall be carried into execution according to law, and for this the present warrant shall be a sufficient authority to all whom it may concern.

Date at this day of , 19 .

(Signature of Judicial Officer)

FORM 22

Gaoler's Receipt for a Prisoner.

I hereby certify that I have this day received from X.Y., police officer, the body of C.D., together with a warrant under the signature of ; and that the said C.D. was (sober) at the time he was so delivered into my custody.

Dated at this day of , 19 , at o'clock.

(Signature of Gaoler)

Section 317.

FORM 23

Warrant of Distress.

(Description of Court)

To and other officers of this Court.

Whereas of was on the day of ordered by this Court forthwith (or on or before the ) to pay [state the penalty, compensation, or costs according to the order made], which he has not paid.

This is to command you to levy the said sum of by distress of the movable and immovable property of the said . And if within days next

after the distress, the said sum of £G together with costs of distress shall not be paid that you do sell the movable and immovable property of the said and that you do pay the money so levied to

This warrant is to be returned in days.

Issued at this day of , 19 .

(Signature of Officer)

(Officer's return if no sufficient distress, to be endorsed on warrant).

I, , Officer of the Court, do hereby certify to the Court that, by virtue of the above written warrant, I have made diligent search for the property of the within named and that I can find no sufficient property of the said whereon the said sum can be levied.

(Signature of Officer)

Section 319.

FORM 24

Warrant of Commitment on Default of Distress or of Payment.

(Description of Court)

To and other officers of this Court.

Whereas of was on the day of convicted before this Court of the offence [state offence] and was ordered to pay, forthwith (or on or before the ) [state penalty] [compensation, or costs according to the order] and the said order has not been satisfied.

This is to command you to lodge the said in the prison of together with this warrant in which prison the said shall be imprisoned (with hard labour) for the space of unless the said sums (with £G for costs of distress) be sooner paid.

Dated at , this day of , 19 .

(Signature of Judicial Officer)

FORM 25

Warrant to Discharge from Prison.

(Description of Court)

To the Keeper of the Prison at

Whereas C.D. was committed to your custody under a warrant dated wherein it was recited that the said C.D. was [state ground of the commitment].

This is to command you to discharge the said C.D., so committed unless he shall be in your custody for some other cause.

Dated at , this day of , 19 .

(Signature of Judicial Officer)

Section 326.

FORM 26

Petition of Appeal.

IN THE.....HIGH COURT

A.B. Appellant

versus

C.D. Respondent

The Petition of A.B. sheweth—

1. That your Petitioner was convicted (or That the respondent was acquitted) by the District Court at on the day of on a charge of

[here state briefly the charge.]

2. A copy of the Judgment (or Order) of the said District Court is attached hereto and marked "A."\*

3. That your Petitioner is aggrieved by the said conviction (or order) of the said District Court and humbly prays that he may appeal against such conviction (or order) on the following question of law (or fact)—

[State grounds of appeal].

To The .....HIGH COURT,

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19

Petitioner

THIRD SCHEDULE

FEES

	£G	s.	d.			
On Summons .. .. .	8	0				
On warrant to arrest an accused person .. .. .	10	0				
On search warrant .. .. .	10	0				
On warrant of distress .. .. .	10	0				
On every subpoena .. .. .	2	0				
On swearing affidavit or making declaration, if not otherwise specifically charged (for each deponent) .. .. .	4	0				
On certifying a copy of a document as an office copy, of not otherwise specifically charged, for every 100 words .. .. .	6					
On issuing writ of habeas corpus .. .. .	5	0				
On warrant for prisoner to give evidence .. .. .	5	0				
On warrant for witness .. .. .	5	0				
On warrant of arrest .. .. .	10	0				
On order to show cause .. .. .	5	0				

SERVICE

	£G	s.	d.			
On service of any document .. .. .	1	0				
Preparing affidavit of service, by order of the Court .. .. .	1	0				
Swearing affidavit of service, by order of the Court .. .. .	1	0				

MILEAGE

	£G	s.	d.
When any duty under the head of "Service" is performed at greater distance than a mile and a half from the Court, there shall be paid, in addition to the above fees, for every mile or part of a mile (one way). .. .. .	6		

ALLOWANCES TO WITNESSES

	£G	s.	d.
Christian clergymen of all denominations, lawyers, medical and other professional men, licensed surveyors, bankers and merchants, and any officer in the Public Service whose salary is £G600 a year or more ..	1	0	0
Mercantile agents .. .. .	5s. to	1	0
Officers in the Public Service whose salary is £G200 but less than £G600	5s. to	1	0
Officers in the Public Service whose salary is under £G200	..2s. to	5	0
Head Chiefs .. .. .	..	1	0
Chiefs .. .. .	.. 10s. to	1	0
Headmen and linguists .. .. .	.. 5s. to	10	0
Auctioneers, photographers, tailors and goldsmiths .. .. .	.. 5s. to	10	0
Planters, traders and clerks .. .. .	.. 2s. to	10	0

Carpenters, blacksmiths, coopers and other artisans .. ..	2s. 6d. to	5	0
Canoemen, fishermen, labourers and servants .. ..	1s. to	2	0
Women .. ..	1s. to	10	0
Children .. ..			6
Any person not included under any of the above such sums as to classes		the Court shall seem fit.	

No fees are to be taken which would be payable by any public department; but such fees shall nevertheless, where they would ordinarily be payable, be taken as paid for the purpose of assessing any costs which the Court shall direct to be paid; and in cases where, if the defendant should be convicted, any prosecutor or informant would in the opinion of the Court be likely to obtain any part of the penalty or forfeiture, the Court may require the fees for service to be paid.

**FOURTH SCHEDULE**

Section 206.

Female Juror's Notice

I,.....

.....

Full Name

Occupation.....

.....

residing

at.....

.....

(Town or village and address)

hereby declare that I am willing to serve as a juror and can understand the English language and am of an age between twenty-five and sixty years.

Dated.....

.....

Signature of Declarant

**FIFTH SCHEDULE**

Section 413.

**REPEALS**

Chapter or Number and Year	Short title	Extent of Repeal
Cap. 10	The Criminal Procedure Code.	The whole Ordinance.
Cap. 11	Probation of Offenders Ordinance.	The whole Ordinance.
Cap. 38	The Prevention of Crime Ordinance.	The whole Ordinance.
Cap. 41	Industrial Schools and Borstal Institutions Ordinance.	The whole Ordinance.
Cap. 51	Repatriation of Convicted Persons.	The whole Ordinance.
L.N. 256 OF 1953 (No.3)..	The Statutory Powers and Duties (Transfer to Ministers) (Amendment) Order, 154.	The whole Order.
L.N. 303 OF 1954	The Statutory Powers and Duties (Transfer to Ministers) (Amendment) Order, 154.	Section 2 relating to the Criminal Procedure Code.
1952-54 Supp.I.p. 107	The Criminal Procedure Code. (Amendment) Ordinance, 1954.	The whole Ordinance.
No. 14 of 1956	Industrial Schools and Borstal Institutions (Amendment) Ordinance, 1956.	The whole Ordinance.
No. 12 of 1957	The Criminal Procedure Code (Amendment) Ordinance, 1957	The whole Ordinance.
No. 22 of 1957	Statute Law (Amendment) Act, 1957.	Section 4.
No. 16 of 1958	Courts (Amendment) Act, 1958.	Section 8.
No. 27 of 1958	Juvenile Offenders Act, 1958.	The whole Act.

No. 54 of 1958           Togoland (Assimilation of Law) Act, 1958. Second Schedule relating to  
Cap. 10.  
No. 33 of 1959           Investigation of Crime Act, 1959       The whole Act  
No. 82 of 1959           The Criminal Procedure Code (Amendment) Act, 1959       The whole Act  
The Suppression of Robbery Decree 1972 (N.R.C.D. 11) is hereby repealed. [Repealed by the  
Criminal Procedure Code (Amendment) Act, (Act 633), s. (32)]

#### SIXTH SCHEDULE

Section 187.

#### RULES AS TO TAKING STATEMENT OF ACCUSED PERSON

1. The accused making a statement must not be cross-examined, and no questions should be put to him about it except for the purpose of removing ambiguity in what he has actually said. For instance, if he had mentioned an hour without saying whether it was morning or evening, or has given a day of the week and day of the month which do not agree, or has not made it clear to what individual or what place he intended to refer in some part of this statement, he may be questioned sufficiently to clear up the point.
2. The Court should refer the accused to the requirements of section 131, in relation to alibis, and if necessary explain to him in simple terms the meaning of an alibi. The Court should then tell the accused that if his answer to the charge is an alibi he may give his explanation now, although he may not yet be able to name the witnesses by whom he proposes to prove it, giving notice of the witnesses later, within the time specified in the section.
3. If any statement already made by the accused and intended, according to the summary of evidence, to be put in evidence at his trial appears to the Court to be inconsistent with the statement now being made, the Court should draw his attention to the inconsistency and invite him to make any correction he may wish in his present statement.
4. If, in view of any explanation given by the accused in his statement, the Court thinks it desirable that the prosecution should give further consideration to the case, the Court should adjourn the proceedings for that purpose.

#### FOOTNOTES

\*NOTE- A copy of the order made under s.24 should be annexed to the summons.

†A copy of the order made under s. 24 should be annexed to the warrant.

\*Attach copy of Judgm