



ORDINANCE NO. 30 OF 1961.

DISTRICT COURTS ORDINANCE, 1961.



I assent.

Governor.

14th July, 1961.

BRITISH GUIANA.

Arrangement of Sections.

Section

1. Short title and commencement.
2. Interpretation.

PART I — ESTABLISHMENT OF THE COURTS

3. Constitution of judicial districts.
4. District courts.

PART II — OFFICERS OF THE COURTS

Section

5. Appointment of district judges.
6. Assignment of courts to judges.
7. Judges' salaries.
8. Appointment of acting judges.
9. Appointment of clerks, assistant clerks and bailiffs.

PART III — SITTINGS OF THE COURTS

10. Sittings of the courts, generally.
11. Change of place of hearing.
12. Punishment of person guilty of misconduct before the court.

PART IV — CIVIL JURISDICTION AND
PROCEDURE

13. Jurisdiction in contract and tort.
14. Local jurisdiction.
15. No splitting of cause of action.
16. Recovery of possession after termination or determination of tenancy.
17. Jurisdiction in workmen's compensation cases.
18. Application of statutory provisions, and adoption of forms, pertaining to civil proceedings in magistrates' courts.

PART V — CRIMINAL JURISDICTION AND
PROCEDURE

19. Criminal jurisdiction of the courts.
20. Committal to a court for trial.
21. Criminal acts done partly within jurisdiction.
22. Restriction on criminal jurisdiction of court.
23. Issue of summons to accused by the court.
24. Securing production of accused person committed to prison.
25. Accused to have copies of statements of prosecution witnesses.
26. Adjournment of hearing and issue of warrant of apprehension.
27. Accused to be in charge of court during hearing.
28. Presence of accused during hearing.
29. Prosecution.
30. Punishment of convicted person and effect of conviction.
31. Court may impose fine or require entry into recognizance to keep the peace.
32. Imprisonment in default of payment of fine.
33. Payment of costs by convicted person.
34. Dismissal of charge on merits.
35. Remission of case to magistrate.
36. Hearing charges together.
37. Accessory before the fact and accomplice to misdemeanour.
38. Certain irregularities not to affect validity of hearing.

Section

- 39. Enforcement of recognizances.
- 40. Acceptance of deposit in lieu of surety.
- 41. Application of certain statutory provisions to judges.
- 42. Consecutive sentences of imprisonment.
- 43. Presumption of age of child.
- 44. Application of statutory provisions, and adoption of forms, pertaining to criminal proceedings in magistrates' courts.

PART VI — MISCELLANEOUS MATTERS

- 45. Regulations.
- 46. Receipt of fees and costs.
- 47. Payment of fees and costs.
- 48. Rules.
- 49. Application of statutory provisions pertaining to magistrates' courts.
- 50. Saving of jurisdiction of Supreme Court and magistrates' courts.
- 51. Transfer to court of actions commenced in Supreme Court.
- 52. Civil appeals.
- 53. Criminal, workmen's compensation and possession appeals.

First Schedule.

Second Schedule.

Third Schedule.

AN ORDINANCE to provide for the establishment of district courts and for matters pertaining to such courts.

Enacted by the Legislature of British Guiana:—

A.D. 1961.

1.(1) This Ordinance may be cited as the District Courts Ordinance, 1961.

Short title and commencement.

(2) The Governor shall, by order, appoint the day or days on which this Ordinance or any parts or provisions thereof shall come into operation.

- 2. In this Ordinance, unless the context otherwise requires — Interpretation.
 - “court” means a district court established in a district by virtue of this Ordinance;
 - “indictable offence” means any offence punishable on indictment before the Supreme Court;
 - “judge” means a district judge appointed under section 5 of this Ordinance.

PART I — ESTABLISHMENT OF THE COURTS

- 3. The Governor in Council may by order —
 - (a) divide British Guiana, or any portion thereof, into judicial districts for the purposes of this Ordinance;

Constitution of judicial districts.

- (b) constitute in any part of British Guiana a judicial district for the said purposes;
- (c) distinguish the districts by names or numbers;
- (d) vary the limits of any district.

District
courts.

4. In each district there is hereby established a court, to be called the district court, with the jurisdiction and powers conferred by this Ordinance.

PART II — OFFICERS OF THE COURTS

Appoint-
ment of
district
judges.

5.(1) The Governor shall appoint to be district judges such number of fit and proper persons as is necessary, each of whom shall be a barrister or solicitor of not less than five years standing.

(2) For the purposes of this section and section 8 of this Ordinance —

“barrister” means any person duly admitted to practise before the Supreme Court as a barrister;

“solicitor” means any person duly admitted to practise before the Supreme Court as a solicitor.

Assignment
of courts to
judges.

6.(1) The Chief Justice may assign one or more courts to any judge, or one court to more than one judge, and may vary any such assignment whether by transferring a judge from one court to another or otherwise and every judge shall have and exercise the jurisdiction and powers of the court or courts assigned to him under this section.

(2) In the case of a court assigned to more than one judge —

(a) each judge shall sit separately and shall have concurrent jurisdiction with every other judge to whom the court is assigned and shall exercise the jurisdiction and powers of the court accordingly; and

(b) the judge who by priority of appointment under section 5 of this Ordinance ranks first among the judges to whom the court is assigned shall, subject to any general or special directions which may be given to him by the Chief Justice, determine the distribution of the business of the court.

Judges'
salaries.

7. Every judge shall be paid such salary as the Governor may direct, out of moneys provided by the Legislature for that purpose.

Appointment
of acting
judges.

8. Where a judge is personally interested or a necessary witness in any civil, criminal or other cause or matter or is incapable through illness, absence or any other cause of acting in his office, the Governor may, if he thinks fit, appoint another judge or any other fit and proper person, who is a barrister or solicitor of not less than five years standing, to do so for such time or in respect of such causes or matters or otherwise as specified by the Governor; and the judge or other person so appointed shall, for the purposes of the appointment, have and exercise all the jurisdiction and powers appertaining to such office.

9.(1) The Governor may appoint some fit and proper person to be the clerk of each court.

Appointment of clerks, assistant clerks and bailiffs.

(2) The Governor may appoint a fit and proper person to be an assistant clerk of any court in which the state of business renders such appointment necessary.

(3) The Governor may appoint to be bailiffs of a court such number of fit and proper persons as is necessary.

PART III — SITTINGS OF THE COURTS

10.(1) The Chief Justice may, by notice, appoint the times and places for the sittings of the courts and may in like manner alter any of those times or places.

Sittings of the courts, generally

(2) Every notice shall be published in the Gazette, and shall take effect on the publication thereof or at any other time mentioned therein.

(3) A copy of any notice aforesaid shall be posted up in a conspicuous place in every court room of the district to which it relates.

11. On the application of either party, or otherwise, the hearing of a case to be taken at one of the places appointed for a sitting of a court in a district under section 10 of this Ordinance may, in the discretion of the judge, be taken at another of such places in the district.

Change of place of hearing.

12.(1) Everyone who wilfully insults a judge, or is guilty of any other grave misconduct during the hearing of any civil, criminal or other cause or matter may, on a verbal order of the judge, be removed, by force if necessary, from the court, and may further be detained, under a warrant for that purpose, in the nearest lock-up or place of detention for any time, not later than the rising of the court on the same day, the judge thinks right.

Punishment of person guilty of misconduct before the court.

(2) The person may further, either alone or in addition to the removal, or removal and detention, as the case may be, be summarily ordered by the judge to pay, either forthwith or within a specified time, a fine not exceeding one hundred dollars, and, in default of payment, to be imprisoned for any term not exceeding one month, or to be imprisoned for any term not exceeding one month, unless sooner discharged by the judge.

(3) Any judge of the Supreme Court may, on an application made in a summary manner, order the total or partial remission, or the repayment, of any fine so inflicted, or the release of the person at once, or at any time before the expiration of his sentence, if the judge of the Supreme Court is satisfied that the applicant was not guilty of the alleged misconduct or that the punishment awarded for it was excessive.

PART IV — CIVIL JURISDICTION AND PROCEDURE

13.(1) Subject to the provisions of subsection (4) of this section, every court shall have jurisdiction in all actions at law, whether arising from tort or from contract, or from both, when the debt, demand or

Jurisdiction in contract and tort.

damage claimed does not exceed one thousand five hundred dollars, whether on balance of account or otherwise; and the court shall hear and determine such actions in a summary manner.

(2) Where in any action the debt or demand claimed consists of a balance not exceeding one thousand five hundred dollars after an admitted set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, the court shall have jurisdiction to hear and determine that action.

(3) For the purposes of any action for slander in a court —

No. 17 of
1959.

(a) a notice required by section 9 of the Defamation Ordinance, 1959, shall be deemed to have been duly given thereunder if given in the manner provided for giving notice of a special defence mentioned in section 12 of the Summary Jurisdiction (Petty Debt) Ordinance in an action in the court;

Cap. 16.

(b) any reference to the Supreme Court or a judge thereof in the Defamation Ordinance, 1959, shall be deemed to include reference to the court or a judge, respectively.

No. 17 of
1959.

(4) Nothing in this section shall confer upon the court jurisdiction in any action in which any incorporeal right, or the title to any immovable property, is or may be in question, or of any action for malicious prosecution, libel, slander of title or goods, seduction or breach of promise of marriage.

Local
jurisdiction.

14. Notwithstanding anything in the preceding section the court shall not have jurisdiction in any action as therein provided unless —

(a) the defendant, or one of the defendants, resides or carries on his business in the district where the court is established; or

(b) the cause of action has arisen wholly or in part within the district; or

(c) the action is for the recovery of a chattel or thing which is in the district.

No splitting
of cause of
action.

15. A plaintiff may not split or divide any cause of action for the purpose of bringing two or more actions in any of the courts; but any plaintiff having a cause of action, wherein a court would have jurisdiction under sections 13 and 14 of this Ordinance if the claim were not for more than one thousand five hundred dollars, may abandon any excess whereby the jurisdiction of the court in the action is excluded, and shall thereupon, on proving his case, recover to an amount not exceeding one thousand five hundred dollars; and the judgment of the court upon the claim shall be in full discharge of all demands in that cause of action and entry of the judgment shall be made accordingly.

16.(1) Without prejudice to any provisions of the Rent Restriction Ordinance or the Rice Farmers (Security of Tenure) Ordinance, 1956, in any case where a magistrate might grant possession of any lands or other premises under section 46 of the Landlord and Tenant Ordinance if the rent had not exceeded the rate of twelve hundred dollars a year, a court may do so if such rent did not exceed the rate of three thousand dollars a year and the lands or other premises, or any part thereof, is or are situated in the district where the court is established.

Recovery of possession after termination or determination of tenancy. Cap. 186. No. 31 of 1956. Cap. 125.

(2) Every provision in sections 46 to 49 (inclusive of both) of the Landlord and Tenant Ordinance and, in so far as it relates to ejectment, every provision in sections 50 to 54 (inclusive of both) and 56 of that Ordinance shall, as the same applies in relation to recovery of possession or ejectment under section 46 aforesaid, or to a magistrate, or to a magistrate's court, or to a matter having connection with such recovery or ejectment, apply *mutatis mutandis* to recovery of possession or ejectment under this section, or to a judge, or to a court, or to a matter having corresponding connection with such recovery or ejectment except in so far as such application is inconsistent with the provisions of this Ordinance.

17. All the jurisdiction and powers conferred upon a magistrate's court or magistrate by the Workmen's Compensation Ordinance are hereby transferred to, and vested in, a court or judge, respectively, and for every reference to a magistrate's court or magistrate (not being a magistrate outside British Guiana) in that Ordinance, or in any regulations in force made thereunder or under any Ordinance replaced thereby, there shall be substituted a reference to a court or judge, respectively, and the Workmen's Compensation Ordinance and such regulations shall be construed and read accordingly:

Jurisdiction in workmen's compensation cases. Cap. 111.

Provided that the provisions of the Workmen's Compensation Ordinance and such regulations shall, if applicable thereto, apply in the case of any accident happening prior to the commencement of this Ordinance as if this section had not been enacted:

Provided further that nothing in this section shall apply in relation to any criminal proceedings for an offence under the Workmen's Compensation Ordinance, or any such regulations, which is punishable on summary conviction.

18.(1) Every statutory provision referred to in the first schedule to this Ordinance shall, as the same applies in relation to civil proceedings in a magistrate's court, or to a magistrate, or to a magistrate's court, or to a matter having connection with such proceedings, apply *mutatis mutandis* in relation to civil proceedings in a court, or to a judge, or to a court, or to a matter having corresponding connection with such proceedings, except in so far as such application of the statutory provision is inconsistent with the provisions of this Ordinance or, if the statutory provision is contained in the Summary Jurisdiction (Civil Procedure) Rules, any rules made under this Ordinance.

Application of statutory provisions, and adoption of forms, pertaining to civil proceedings in magistrates' courts. First schedule.

(2) In the exercise of the jurisdiction conferred by this Part of this Ordinance or the powers or functions pertaining to such jurisdic-

tion, the courts and officers thereof shall, in so far as practicable, adopt *mutatis mutandis* the documentary forms prescribed for use by magistrates' courts and officers thereof in the exercise of their civil jurisdiction or their powers or functions pertaining to such jurisdiction, except in so far as it would be inconsistent with the provisions of this Ordinance or rules made thereunder to do so.

PART V — CRIMINAL JURISDICTION AND PROCEDURE

Criminal
Jurisdiction
of the
courts.

Cap. 15.

19. Every court shall have jurisdiction to hear and determine in a summary manner every charge which is referred to it for trial as hereinafter provided and is for any indictable offence mentioned in the first schedule to the Summary Jurisdiction (Procedure) Ordinance, or for any other indictable offence under any Ordinance not being an offence punishable with death or a term of imprisonment exceeding seven years; and any reference to indictment, the Supreme Court, or the jury in any special provisions with regard to the offence in the Ordinance prescribing it shall be construed to include a reference to the charge, court or judge, respectively, for the purposes of this Ordinance, except in so far as the effect of such construction would be inconsistent with the provisions of this Ordinance:

Provided that where the effect would be to empower the court to hold any proceedings *in camera*, such effect shall not, for that reason only, be deemed inconsistent with the provisions of this Ordinance.

Committal
to a court
for trial.

20.(1) Where a person who, in the opinion of the magistrate, is of or above the age of sixteen years is charged before a magistrate's court with any indictable offence aforesaid, and the charge has been instituted by a member of the British Guiana Police Force acting in the course of his duties, the magistrate may, if he thinks it expedient to do so (having regard to any representation made in the presence of the accused by or on behalf of the prosecution, the nature of the offence and all the other circumstances of the case, including the adequacy of the punishment which the court has power to inflict) and if the accused consents, commit him for trial for that offence to the court for the district in which the same was committed in the manner hereinafter provided.

(2) If the magistrate at any time before the conclusion of the hearing of such a charge is satisfied that it is expedient to commit the accused for trial under the preceding subsection, the magistrate shall cause the clerk of the magistrate's court to reduce the charge into writing (whether or not this has already been done) and to read it to the accused; and the magistrate shall thereupon inform the accused of his right to be tried by a jury and shall ask him whether he wishes to be so tried or consents to being committed as aforesaid; and, if the accused so consents, the magistrate shall cause the clerk to make copies of the charge as written under this subsection and shall certify as true and exact each of the said copies, of which one shall be given to the accused, another to the prosecutor, and another shall be sent forthwith to the clerk of the court to which the accused is committed for trial

under this section with a statement endorsed thereon as to whether or not the accused has been admitted to bail.

(3) The provisions of subsection (4) of section 7, and paragraphs (1) to (4) of section 109 of the Summary Jurisdiction (Procedure) Ordinance shall apply in relation to a charge reduced into writing under the preceding subsection and such charge shall be for one offence only but may be against more than one accused who are charged before the magistrate's court with the offence as mentioned in subsection (1) of this section. Cap. 15.

(4) Where a person is charged before a magistrate's court with an indictable offence as aforesaid, the magistrate may, without prejudice to any other power which he possesses, at any time before conclusion of the hearing of such charge, adjourn the cause and remand the person charged for the purpose of ascertaining whether it is expedient to commit the accused for trial under this section.

(5) If the magistrate has taken the evidence of any witnesses before deciding to commit the accused for trial as aforesaid, the depositions of those witnesses shall be forwarded to the clerk of the court to which the accused is committed together with the certified copy of the charge.

(6) The prosecutor, or any person authorised in writing by him, and the accused, whether admitted to bail or not, shall be entitled to have from the clerk of the court copies of any depositions forwarded to him under subsection (5) of this section.

(7) After an accused has been committed under this section for trial for an indictable offence, the custody of all documentary articles which are in the custody of a magistrate, or a magistrate's court, or any officer thereof in the course of his duties, with a view to their production in evidence at the trial of that offence, shall be transferred to the court to which the accused has been committed and all other articles in custody as aforesaid shall be taken charge of, and made available for production in evidence at the trial, by the police.

(8) Upon committing an accused under this section, the magistrate may —

(a) commit him to prison; or

(b) discharge him upon his entering into a recognizance with or without a surety or sureties conditioned that he will personally appear before the court to which he has been committed at such time and place as may be mentioned in any summons issued by the said court and directed to him under section 23 of this Ordinance, and at every time and place to which the hearing of the charge on which he is committed may from time to time be adjourned by the said court, to be dealt with according to law and that having so appeared at any time he will not depart the said court without leave thereof.

(9) A warrant of commitment under this section shall state to which court the accused has been committed for trial but shall otherwise be in the like form as a warrant of commitment under section 71 of the Criminal Law (Procedure) Ordinance.

Cap. 11.

(10) The provisions of subsections (1) and (2) of section 85 of the Criminal Law (Procedure) Ordinance shall, subject as herein-after provided, apply in relation to warrants of commitment under this section as the same apply in relation to warrants of commitment under section 71 of that Ordinance and a copy of the warrant shall be forwarded to the clerk of the court together with the copy of the charge to which the warrant relates, sent under subsection (2) of this section.

(11) Any recognizance entered into under subsection (8) of this section shall be forwarded to the clerk of the court together with the copy of the charge sent under subsection (2) of this section.

Criminal acts done partly within jurisdiction.

21. Where an act which, if done wholly within the jurisdiction of a court, would be an offence cognizable in that court, is done partly within and partly beyond that court's jurisdiction, every person who, within the jurisdiction, does or abets any part of that act may be charged, tried, convicted and punished for the offence under this Ordinance as if the act had been done wholly within the jurisdiction.

Restriction on criminal jurisdiction of court.

22. Nothing in this Part of this Ordinance shall authorise the court to hear and determine any charge in which any question in good faith arises as to the title to any immovable property or any interest therein or accruing therefrom, or as to any execution under the process of the Supreme Court.

Issue of summons to accused by the court.

23.(1) Upon receipt of any recognizance entered into by an accused committed for trial under this Ordinance, the clerk of the court shall lay the same, together with the certified copy of the charge on which the accused has been so committed, before the judge who shall issue his summons directed to the accused, containing a statement of the charge, and requiring him to appear at a certain time and place before the court to be dealt with according to law.

(2) Any summons issued under this section may be sent by registered post to the accused's address as stated in his recognizance.

Securing production of accused person committed to prison.

24. Upon receipt of any warrant of commitment under section 20 of this Ordinance the clerk of the court shall lay the same, together with the certified copy of the charge on which the accused has been so committed, before the judge who shall issue an order under subsection (1) of section 26 of the Prison Ordinance, 1957, requiring the production of the accused before the court at the time (which shall not be more than fourteen days after issue of the order) and place named therein.

No. 22 of 1957.

Accused to have copies of statements of prosecution witnesses.

25.(1) At least seven days before the time at which an accused is required by a summons or order issued under section 23 or 24 of this Ordinance to appear or be produced before the court upon any charge, the police shall file with the clerk of the court copies of every statement

previously made to them, in the course of their investigation of the offence charged, by every witness whom the prosecution intend to call at the hearing of the charge and the accused, whether admitted to bail or not, shall be entitled, at his request, to have from the clerk one such copy of each statement of which copies are filed in pursuance of this subsection and the remaining copy thereof shall be retained by the clerk for the use of the court:

Provided that the court may adjourn the hearing to such time as it thinks fit in order to allow further time for such copies to be filed or, if filed before such adjournment, in order that the accused should not be called upon to plead sooner than seven days after the filing of such copies:

Provided further that nothing herein shall be construed as requiring the prosecution to call any witnesses copies of whose statements are filed, or precluding the prosecution from calling any witnesses copies of whose statements have not been filed, under the provisions of this subsection.

(2) In the event of any failure on the part of the police to file copies of statements in pursuance of the provisions of the preceding subsection the court may, if it thinks fit, dismiss the charge and such dismissal shall have the same effect as a dismissal of the charge on its merits.

(3) No witness shall be called by the prosecution to give evidence during the hearing of any charge before the court unless copies of every statement previously made by him to the police in the course of their investigation of the offence charged have been filed with the clerk of the court and, if not filed under subsection (1) of this section, one copy from every set of copies filed has been given to the accused before the witness is so called.

(4) Upon the receipt of a copy of any statement in accordance with the provisions of the preceding subsection, the accused shall, at his request, be entitled to an adjournment of the hearing to such time as the court thinks fit.

26.(1) At the time and place at which the accused is required by a summons or order issued under section 23 or 24 of this Ordinance to appear or be produced before the court upon any charge, or at any subsequent time before conclusion of the hearing thereof, the court may adjourn the hearing to a certain time and place.

Adjournment of hearing and issue of warrant of apprehension.

(2) Upon any adjournment the court may, in its discretion,—

- (a) commit the accused to prison or to other safe custody as the court thinks fit, whether he has previously been admitted to bail or not; but the committal shall not be for a longer term than fourteen days, the day following that on which the committal is made being counted as the first day; and upon commitment of the accused to prison under this paragraph on any charge, any warrant whereby he was previously committed to prison under

this Ordinance on such charge shall cease to have effect but without prejudice to the legality of anything done under such warrant; or

- (b) discharge him upon his entering into a recognizance with or without a surety or sureties conditioned that he will personally appear before the court at the time and place to which the hearing is adjourned, and at every time and place to which the hearing may from time to time be adjourned, to be dealt with according to law and that having so appeared at any time he will not depart the court without the leave thereof, and upon his entering into a recognizance as aforesaid any recognizance whereon he was previously admitted to bail under this Ordinance on the charge shall cease to have effect but without prejudice to any liability incurred under the last mentioned recognizance; or
- (c) suffer him to go at large upon the terms of any recognizance (not being a recognizance which has ceased to have effect under the preceding paragraph) relating to the charge and previously entered into by him under this section or section 20 of this Ordinance, and he shall be bound by that recognizance personally to appear before the court at the time and place to which the hearing is adjourned to be dealt with according to law, and having so appeared not to depart the court without leave thereof, and his surety or sureties (if any) shall be bound accordingly, without his or their entering into any further recognizance for the purpose.

(3) The powers conferred by subsection (1) and paragraphs (a) and (c) of subsection (2) of this section may, if the court thinks fit, be exercised in the absence of the accused:

Provided that the powers conferred by paragraph (a) of subsection (2) of this section shall not be so exercised unless the accused is in custody and the court is satisfied that he is unable to be present by reason of illness or other sufficient cause; and where an accused is committed in accordance with this proviso, he shall be produced as soon as practicable before the court to be dealt with according to law notwithstanding that the period of the committal and adjournment be unexpired, in which event such period shall be deemed to expire upon his production before the court as aforesaid.

(4) If an accused fails to appear before the court upon any charge when bound to do so, the judge may, if he thinks fit, issue a warrant to apprehend the accused and bring him before the court to be dealt with according to law and the hearing of the charge shall be deemed to have been, upon the issue of such warrant, adjourned by the court to the time and place at which the accused is brought before it under the warrant.

27. Every accused appearing before the court shall be in the charge of the court and the court may cause him to be restrained from leaving the hearing or otherwise misconducting himself thereat, without prejudice to any other liability he may incur by reason of any such misconduct.

Accused to be in charge of court during hearing.

28.(1) Subject to the provisions of subsection (3) of section 26 of this Ordinance, every person charged with an offence shall be entitled to be present in court at all times during the hearing of such charge by the court, unless he misconducts himself by so interrupting the proceedings as to render their continuance in his presence impracticable.

Presence or accused during hearing.

(2) The court may, if it thinks proper, permit the accused to be out of court at any time during the hearing on any terms it deems right.

29.(1) The prosecution of a charge before the court shall be conducted by a legal practitioner appointed for the purpose by the Attorney General but it shall not be necessary for any such legal practitioner to produce any commission or other proof of his having been so appointed.

Prosecution.

(2) For the purposes of this section the expression "legal practitioner" means a person duly admitted to practise before the Supreme Court as a barrister or a solicitor.

30. If the accused pleads guilty to, or is found guilty of, the offence charged, the court may sentence him to any punishment or punishments to which the Supreme Court could have sentenced him if he were convicted of such offence in the Supreme Court and his conviction for the offence shall be of the same effect as a conviction on a trial on indictment therefor:

Punishment of convicted person and effect of conviction.

Provided that the court shall not sentence the accused to a term of imprisonment exceeding three years or to pay a fine exceeding five hundred dollars or to pay any person injured by the commission of the offence compensation exceeding five hundred dollars; and any compensation awarded by the court in pursuance of this section shall be regarded and dealt with as if it were a sum awarded by a judgment of the court in the exercise of its civil jurisdiction and the receipt thereof shall be a bar to any action for the same injury but shall not otherwise affect the right of action of any person in respect of any injury sustained by him or his property by the commission of an indictable offence.

31.(1) For any term of imprisonment to which the court may sentence an accused in pursuance of the preceding section, the court may substitute a fine not exceeding five hundred dollars.

Court may impose fine or require entry into recognizance to keep the peace.

(2) The court may, in addition to, or in lieu of, any other punishment which it may impose on an accused, order that he shall enter into a recognizance, with or without sureties, for keeping the peace and being of good behaviour; and that in default of entering

into the recognizance, he be imprisoned, in addition to the term of imprisonment (if any) to which he may be sentenced, for any term not exceeding six months.

32. Where the court sentences a person convicted of an offence to pay a fine, it shall, by its sentence, direct that if the person fails to pay the fine at the time appointed for the payment thereof he shall be imprisoned for such period, not exceeding one-fourth of the maximum term of imprisonment to which he might be sentenced by the court for that offence, as the court thinks fit, unless the fine is sooner paid. Any imprisonment to which a person is sentenced and becomes subject under this section shall, if the relevant fine is imposed in addition to a term of imprisonment for the offence, commence at the expiration of such term of imprisonment.

33.(1) Where an accused person is convicted before the court of an offence, the court may order him to pay the costs of the prosecution in addition to any sentence passed upon him.

(2) Any award of costs by the court in pursuance of this section shall be dealt with and have effect as if the costs had been awarded by a judgment of the court in the exercise of its civil jurisdiction.

(3) No order made under this section shall affect the claim of any witness to be paid his costs, allowances or expenses as prescribed by any regulations made under section 45 of this Ordinance.

34. Where the court dismisses a charge on its merits, it shall, if required, deliver to the person charged a copy, certified under the hand of the judge, of the order of dismissal, and the dismissal shall be of the same effect as an acquittal on a trial on indictment for the offence.

35.(1) If on the hearing of any charge it appears to a court that the offence was committed beyond the limits of its jurisdiction, the court shall, subject to the provisions of the next subsection, remit the case to the magistrate who committed the person charged with a direction that he be committed for trial in accordance with the provisions of this Ordinance to the court for the district in which the offence appears to have been committed; and his previous consent, which was given by virtue of the provisions of subsection (2) of section 20 of this Ordinance when he was committed for trial to the court from which the case is remitted as aforesaid, shall have effect as if such consent were duly given in reference to his committal for trial pursuant to the said direction.

(2) If on the hearing of any charge it appears to a court that the case ought to be tried on indictment before the Supreme Court, or if the Attorney General intimates to the court his opinion in writing to that effect, the court shall remit the case to the magistrate aforesaid with a direction to deal therewith under the provisions of the Criminal Law (Procedure) Ordinance in so far as he has not already done so.

(3) Upon the remission of any case under this section, the court shall return all exhibits tendered in evidence at the hearing of the case

Imprisonment in default of payment of fine.

Payment of costs by convicted person.

Dismissal of charge on merits.

Remission of case to magistrate.

to the custody from which they were produced in evidence, and all documentary articles transferred to the court under subsection (7), together with any depositions relating to the case forwarded under subsection (5), of section 20 of this Ordinance shall be returned to the custody of the magistrate's court.

(4) Upon the remission of any case as aforesaid, the court may, in its discretion —

(a) commit the accused to prison until such time (not being more than fourteen days after the magistrate's receipt of the direction pertaining to the remission) as the magistrate may, by order under subsection (1) of section 26 of the Prison Ordinance, 1957, appoint for his production before the magistrate's court for the purposes of the remission; and, upon the commitment of the accused to prison under this section on any charge, any warrant whereby he was previously committed to prison under this Ordinance on such charge shall cease to have effect, but without prejudice to the legality of anything done under such warrant; or

No. 22 of
1957.

(b) discharge the accused upon his entering into a recognizance with or without a surety or sureties conditioned for his personal appearance before the magistrate to whom the case is remitted in accordance with such summons as may be issued by the magistrate in that behalf for the purposes of such remission.

36. Where one or more charges before the court might have been included in the same indictment if the person charged had been committed for trial under the Criminal Law (Procedure) Ordinance, the court may, if it thinks fit and the prosecution and the said person consent, hear and determine the offences charged at one and the same time:

Hearing
charges
together.
Cap 11

Provided that no such person shall be called by the prosecution to give evidence at the hearing, whether in respect of an offence with which he is charged or not.

37.(1) Everyone who counsels, procures, or commands, or becomes an accessory before the fact to, any felony cognizable in a court may be charged, tried, convicted and punished in pursuance of this Ordinance for the said felony in all respects as if he were a principal felon.

Accessory
before the
fact and
accomplice
to mis-
demeanour.

(2) Everyone who aids, abets, counsels or procures the commission of any misdemeanour cognizable in a court may be charged, tried, convicted and punished in pursuance of this Ordinance for the said misdemeanour in all respects as a principal offender.

38. Where a person is committed to a court for trial under this Ordinance, no irregularity, illegality, defect or error in the arrest or custody of the person at any time, or in any summons, warrant, order, recognizance or other document to procure the presence of any person

Certain irre-
regularities not
to affect
validity of
hearing.

before the court or the magistrate's court or to commit any person to prison with a view to procuring his presence as aforesaid, or in the issuing, service, execution or taking of any such document, shall affect the validity of any proceedings at the hearing or determination of the charge by the court.

Enforcement
of recogniz-
ances.

39.(1) Where a recognizance is conditioned for the appearance of any person before the court or for his doing some other act or thing to be done in, to, or before the court or in a proceeding in the court, the court may, if the recognizance appears to be forfeited, declare it to be forfeited, and order the sum due thereunder to be levied upon the movable property of the person liable thereunder; and every provision of the Summary Jurisdiction (Procedure) Ordinance as to the enforcement of an order of the magistrate's court for the payment of a sum of money by way of penalty shall, as the same applies in relation to the enforcement of a recognizance forfeited under section 97 of that Ordinance, or to a magistrate, or to a magistrate's court, or to a matter having connection with such enforcement, apply *mutatis mutandis* in relation to the enforcement of a recognizance forfeited under this section, or to a judge, or to a court, or to a matter having corresponding connection with such enforcement:

Cap. 15.

Provided that (a) the court may at any time cancel or mitigate the forfeiture, upon the person liable under the recognizance applying and giving security, to the satisfaction of the court, for the future performance of the condition of the recognizance, and paying, or giving security for the payment of, the costs incurred in respect of the forfeiture, or upon any other conditions the court thinks just; and (b) if it appears to the court that a warrant of distress should not, under the provisions hereinbefore contained, be issued against the person liable under the recognizance, but that he has immovable property, the court may, if it thinks fit, postpone the issue of a warrant of commitment against him, and transmit the recognizance to the Attorney General in order that it may be put in suit against him.

(2) Where a recognizance to keep the peace and to be of good behaviour, or not to do or commit some act or thing, has been entered into by any person as principal or as a surety before the court, the court may, on proof of the conviction of the person bound as principal by the recognizance of any offence which is by law a breach of the condition thereof, by order adjudge the recognizance to be forfeited and adjudge the persons bound thereby, whether as principal or as sureties, or any of them, to pay the sums for which they are respectively bound; and the recognizance shall be dealt with in the manner hereinbefore mentioned.

(3) All sums paid or recovered in respect of any recognizance declared or adjudged by the court in pursuance of this section to be forfeited shall be paid to the clerk and shall be paid over and accounted for in the same manner as penalties imposed by the court.

40. The court may accept a deposit of money from or on account of any person in lieu of a surety or sureties, and if the recognizance is forfeited under the preceding section, the deposit shall be dealt with in accordance with subsection (3) thereof.

Acceptance of deposit in lieu of surety.

41.(1) Every reference in sections 199, 200 and 201 of the Criminal Law (Procedure) Ordinance to a judge of the Supreme Court shall be construed to include a reference to a judge.

Application of certain statutory provisions to judges. Cap. 11.

(2) Reference to a magistrate in section 23 of the Police Ordinance, 1957, and to the jury in subsection (2) of section 22, and subsection (5) of section 95, of the Evidence Ordinance shall be deemed to include reference to a judge.

No. 39 of 1957.

Cap. 25.

42.(1) Where the court adjudges any person to undergo a term of imprisonment for any offence and he is already undergoing, or has been at the same sitting of the court adjudged to undergo, imprisonment for another offence, the court may direct that that imprisonment shall commence at the expiration of the imprisonment which he is then undergoing, or has been so previously adjudged to undergo as aforesaid.

Consecutive sentences of imprisonment.

(2) In this section the expression "imprisonment" shall include cases where imprisonment is imposed by a district court or any other court on any person with or without option of a fine, or in respect of the non-payment of any sum of money or for failing to do or abstaining from doing any act or thing required to be done or left undone.

43.(1) Where any person is before the court charged with an indictable offence under any Ordinance in respect of a child who is alleged in the charge to be under any specified age, and the child appears to the court to be under that age, the child shall, for the purposes of such Ordinance, be deemed to be under that age, unless the contrary is proved.

Presumption of age of child.

(2) For the purposes of this section, the expression "child" means any person who in the opinion of the court is under the age of fourteen years.

44.(1) Every statutory provision referred to in the second schedule to this Ordinance shall, as the same applies in relation to criminal proceedings for a summary conviction offence (as defined for the purpose of such provisions), or to a magistrate, or to a magistrate's court, or to a matter having connection with such proceedings, apply *mutatis mutandis* in relation to criminal proceedings in a court, or to a judge, or to a court, or to a matter having corresponding connection with such proceedings, except in so far as such application is inconsistent with the provisions of this Ordinance.

Application of statutory provisions, and adoption of forms, pertaining to criminal proceedings in magistrates' courts. Second schedule.

(2) In the exercise of the jurisdiction conferred by this Part of this Ordinance or the powers or functions pertaining to such jurisdiction the courts and officers thereof shall, in so far as practicable, adopt *mutatis mutandis* the documentary forms prescribed for use by magistrates' courts and officers thereof in the exercise of their criminal juris-

diction or their powers or functions pertaining to such jurisdiction, except in so far as it would be inconsistent with the provisions of this Ordinance or rules made thereunder to do so.

PART VI — MISCELLANEOUS MATTERS

- Regulations.** 45. The Governor may make regulations for carrying out the provisions of this Ordinance and, without prejudice to the generality of such powers, for all or any of the following purposes, namely, for —
- (a) prescribing the fees and costs payable in respect of any document, process, or other matter pertaining to proceedings in a court;
 - (b) regulating —
 - (i) the payment of fees, costs, fines and other moneys into court;
 - (ii) the receipt of moneys paid into court or received or recovered under or by virtue of any process of execution or distress;
 - (iii) the payment out of court of all moneys to the persons entitled thereto;
 - (c) prescribing the books and forms of account to be kept or used in courts.

Receipt of fees and costs. 46. The fees and costs prescribed by regulations under the preceding section and all fines and other moneys due to be paid into court may be demanded and received by the clerk of the court.

Payment of fees and costs. 47.(1) All fees and costs shall in the first instance be paid by the party by whom they are incurred, but they shall, unless otherwise ordered, be costs in the cause or matter in which they are paid:

Provided that —

- (a) no fees shall be payable in any case in which the judge endorses on the plaint that the case is a proper one to be brought by the public body or officer who is the plaintiff as concerning the public interest, or that it is a fit case for the remission of fees on account of the poverty of the party; and
- (b) in that case the fees and costs shall, in the discretion of the judge, be recoverable from the other party if the decision is given against him.

(2) No fees shall be taken where they are payable by any government department, but they shall, nevertheless, be taken as paid for the purpose of assessing any costs which the court directs to be paid.

Rules. 48.(1) The Chief Justice may appoint three or more judges who may, with the advice and assistance of a committee consisting of two legal practitioners to be appointed for the purpose by the Chief Justice, make rules, including forms (whether in substitution for any forms adopted under subsection (2) of section 18 or subsection (2) of section 44 of this Ordinance or not), for regulating the practice and pro-

cedure of the courts in so far as the same is not regulated by this Ordinance or any provisions of any other Ordinance having extended application hereunder.

(2) Every appointment under this section shall be in writing under the hand of the Chief Justice who may at any time revoke such appointment and may, in the case of the death, resignation, temporary absence from British Guiana, or revocation of the appointment, of any judge or legal practitioner appointed under this section, fill his place permanently or temporarily by the appointment of another judge or legal practitioner.

(3) Every rule so made shall be laid before the Legislative Council within fourteen days next after it is made if the Legislative Council is then sitting, or, if not, within fourteen days after the commencement of the next ensuing session, and, if within the next subsequent twenty-one days, a resolution is passed by the Legislative Council praying that the rule may be annulled, the Governor may thereupon by Order annul it; and the rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings in the meantime taken under it.

49. Every statutory provision referred to in the third schedule to this Ordinance shall, as the same applies in relation to a magistrate's court, or to a magistrate, or to a matter having connection with a magistrate's court, apply *mutatis mutandis* in relation to a court, or to a judge, or to a matter having corresponding connection with a court, except in so far as such application is inconsistent with the provisions of this Ordinance.

Application of statutory provisions pertaining to magistrates' courts. Third schedule.

50. Nothing in this Ordinance shall take away any jurisdiction of the Supreme Court or a judge thereof or, subject to the provisions of section 17 of this Ordinance, any magistrate's court or magistrate.

Saving of jurisdiction of Supreme Court and magistrates' courts.

51.(1) Where a civil action cognizable in any court was commenced in the Supreme Court before the coming into force of this Ordinance, the latter Court may, at any time before conclusion of the hearing of the action, on the application by either party in a summary form, order that the action be transferred to the said court on such terms as the Supreme Court thinks fit.

Transfer to court of actions commenced in Supreme Court.

(2) No fees payable to any officer of the court shall be taken from any party in any action transferred under this section.

(3) Upon an order being made under subsection (1) of this section, the Registrar of the Supreme Court shall transmit the records, documents and exhibits in the action to the clerk of the court to which the action is transferred and the records, documents and exhibits transmitted shall be dealt with in accordance with rules made under section 48 of this Ordinance and, subject to the provisions of any rules so made, the action shall be continued in, and be heard and determined by, the court as if it had been commenced therein.

Civil
appeals.

52.(1) Subject to any rules made by virtue of the next subsection, an appeal shall lie to the Full Court from any judgment given or order made by a court in a civil action determined by it otherwise than in the exercise, or any purported exercise, of any jurisdiction or powers conferred by virtue of section 16 or 17 of this Ordinance and every application for a new trial of any such action, or to set aside the court's finding or judgment therein, shall be made to the Full Court.

Cap. 7.

(2) The power conferred by the Supreme Court Ordinance to make rules of court shall be deemed to include the power to make rules of court for any of the purposes of this section.

Criminal
workmen's
compensa-
tion and
possession
appeals.

53.(1) Subject as hereinafter provided, any party dissatisfied with a decision of a judge, other than a decision in an action referred to in the preceding section, may appeal therefrom to the Full Court.

Cap. 17.

(2) Every provision of the Summary Jurisdiction (Appeals) Ordinance shall, as the same applies in relation to an appeal from a decision of a magistrate, or to a magistrate, or to a magistrate's court, or to a matter having connection with such an appeal, apply *mutatis mutandis* in relation to an appeal pursuant to any provisions of this section, or to a judge, or to a court, or to a matter having corresponding connection with such an appeal, except in so far as such application is inconsistent with the provisions of this Ordinance:

Provided that, for the purposes of its application in pursuance of this subsection, —

- (a) paragraph (b) of subsection (1) of section 4 of the Summary Jurisdiction (Appeals) Ordinance shall have effect as if there were substituted for the word "fourteen" therein the word "twenty-eight";
- (b) subsection (3) of section 5 of the said Ordinance shall have effect as if there were substituted —
 - (i) for the word "fourteen" therein the word "twenty-eight", and
 - (ii) for the amount specified therein such amount as shall be determined by the judge upon the application of the appellant, which shall be made in a summary manner;
- (c) subsection (4) of section 5 of the said Ordinance shall have effect as if the proviso thereto were deleted;
- (d) paragraph (b) of section 34 of the said Ordinance shall have effect as if, for the words appearing therein after the words "in accordance with", there were substituted the words "any statutory provisions for the enforcement of costs awarded by district courts in the exercise of their civil jurisdiction."

(3) Every provision of sections 15, 36 and 37 of the said Ordinance shall apply in the manner provided by the preceding subsection

as if the expression "appeal" therein signified proceedings of the type to which that provision relates.

FIRST SCHEDULE

Section 18(1)

1. Sections 5 and 7 to 64 (inclusive of both but exclusive of subsection (4) of section 56) of the Summary Jurisdiction (Petty Debt) Ordinance. Cap. 16.
2. Parts I (exclusive of the words "to the head bailiff in the Georgetown Judicial District, and elsewhere" and "head bailiff or" in rule 10) II, III, IV, V, VI, VII, VIII, IX, X, XI, XII (exclusive of rules 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22 and 23), XIII, XIV, XV, XVI, XVII (exclusive of rule 7), XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV (exclusive of rules 1, 2, 3 and 4) XXVI and XXVII of the Summary Jurisdiction (Civil Procedure) Rules. Cap. 12.
(subsidiary
legislation).

SECOND SCHEDULE

Section 44(1)

Sections 8, 14, 15, 16, 17, 18, 19, 20, 21, 22, 27, 29, 34 (exclusive of subsection (3)), 38, 39, 40, 41 (exclusive of subsection (4) and any reference thereto or to an offence under section 94 of the Summary Jurisdiction (Offences) Ordinance), 44(2), 45, 52, 55, 56, 57 (exclusive of subsections (4) and (5) and of reference to the amount of costs, charges and expenses in subsection (2)), 59 (exclusive of subsection (3)), 64, 65, 66, 67, 68, 75, 76, 77 (with reference to the Criminal Law (Procedure) Ordinance substituted for reference to the Summary Jurisdiction (Procedure) Ordinance), 78, 79, 80, 83, 84, 92, 93, 94, 95, 96, 98, 100, 101, 102 (exclusive of reference to costs), 103, 104, 105, 106 and 107, and paragraphs (1), (2), (3) and (4) of section 109, of the Summary Jurisdiction (Procedure) Ordinance. Cap. 14.
Cap. 11.
Cap. 15.
Cap. 15.

THIRD SCHEDULE

Section 49

Sections 4, 26, 27, 28, 29(1), 30, 32, 33, 34, 35, 36, 38, 40(2), 43, 44, 47, 48, 49, 51, 55, 56, 57, 59, 60, 62 and 65 of the Summary Jurisdiction (Magistrates) Ordinance and section 63 of the Supreme Court Ordinance. Cap. 12.
Cap. 7.

Passed by the Legislative Council this seventh day of July, nineteen hundred and sixty-one.

E. Lynn V. Viapue.
Acting Clerk of the Legislature

(M.P. No. 94/13/1/1).

(Leg. Bill No. 20/1961).