

PARLIAMENT OFFICE,  
Public Buildings,  
Georgetown,  
Guyana.

7th Sept., 1978

The following Bills which will be introduced in the National Assembly are published for general information.

*F. A. Narain,*  
Clerk of the National Assembly



**BILL No. 20 of 1978**  
**ADMINISTRATION OF JUSTICE BILL 1978**  
**ARRANGEMENT OF SECTIONS**

**SECTION**

**PART I — PRELIMINARY**

1. Short title and commencement.

**PART II — AMENDMENT OF THE CONSTITUTION**

2. Alteration of Chapter VII of the Constitution.

**PART III — EXTENSION OF THE CRIMINAL JURISDICTION  
OF THE MAGISTRATES**

3. Repeal and re-enactment of section 29 of the Summary Jurisdiction (Procedure) Act.
4. Extension of the criminal jurisdiction of magistrates.
5. Amendment of section 64 of the Summary Jurisdiction (Procedure) Act.
6. Re-enactment of the First Schedule to the Summary Jurisdiction (Procedure) Act.

**PART IV — MODIFICATION OF LAW RELATING TO  
CRIMINAL APPEALS**

7. Appeals from decisions of magistrates in indictable matters taken summarily to lie to Court of Appeal.
8. Amendment of the Court of Appeal Act.

**PART V — EXTENSION OF JURISDICTION OF  
COMMISSIONER OF TITLE**

9. Bail Court Jurisdiction of Commissioner of Title.

**PART VI — EXTENSION OF THE CIVIL JURISDICTION  
OF MAGISTRATES**

10. Amendment of Summary Jurisdiction (Petty Debt) Act.
11. Amendment of the High Court Act.

**PART VII — MISCELLANEOUS MATTERS**

12. Amendment of the Court of Appeal Act.
13. Amendment of the High Court Act.
14. Repeal and re-enactment of sections 13 and 14 of the Criminal Law (Offences) Act.
15. Repeal and re-enactment of sections 14 and 15 of the Summary Jurisdiction (Offences) Act.
16. Amendment of the Criminal Law (Procedure) Act.
17. Amendment of the Summary Jurisdiction (Procedure) Act.
18. Amendment of section 131 of the Defence Act.
19. Amendment of section 36 of the Motor Vehicles and Road Traffic Act.
20. Amendment of the Fifth Schedule to the Exchange Control Act.

A BILL  
Intituled

AN ACT to alter Chapter VII of the Constitution in accordance with article 73 thereof and to make provision for matters relating to the administration of justice.

Enacted by the Parliament of Guyana:—

**PART I — PRELIMINARY**

1. (1) This Act may be cited as the Administration of Justice Act 1978. Short title and commencement.

(2) Sections 3 to 20 (inclusive) shall come into operation on the day after the date on which section 2 comes into operation.

**PART II — AMENDMENT OF THE CONSTITUTION**

2. Chapter VII of the Constitution is hereby altered in the following respects — Alteration of Chapter VII of the Constitution.

(a) by the addition to article 83 of the following paragraph —

“(3) Parliament may confer on any court any part of the jurisdiction of and any powers conferred on the High Court by this Constitution or any other law.”;

(b) by the insertion immediately after article 89 of the following article as article 89A—

8 A. (1) Parliament may make provision for the exercise of —

“Attendance of additional judge in Court of Appeal and High Court.

(a) the jurisdiction and powers of a Justice of Appeal by such Puisne Judge as may be requested by the Chancellor to sit as an additional Justice of Appeal at sittings of the Court of Appeal; and

(b) the jurisdiction and powers of a Puisne Judge by such Justice of Appeal as may be requested by the Chancellor to sit as an additional Puisne Judge.

(2) Article 91 of the Constitution shall not apply to a Justice of Appeal or a Puisne Judge in the carrying out by him of any function pursuant to paragraph (1) of this article.”.

**PART III — EXTENSION OF THE CRIMINAL JURISDICTION OF MAGISTRATES**

Repeal and re-enactment of section 29 of the Summary Jurisdiction (Procedure) Act. Cap. 10:02

3. Section 29 of the Summary Jurisdiction (Procedure) Act is hereby repealed and the following section substituted therefor —

Hearing of complaints together.

29. Any number of complaints for any number of offences may be heard together where the offences are founded on the same facts, or form or are a part of a series of offences of the same or a similar character:

Provided that if the court thinks it conducive to the ends of justice to do so, it may order that the defendant shall be tried upon any one or more of the complaints separately.”.

Extension of the criminal jurisdiction of magistrates. Cap. 10:02

4. Section 61 of the Summary Jurisdiction (Procedure) Act is hereby repealed and the following section substituted therefor —

“Summary trial of indictable offences.

61. (1) Where a person who is an adult is charged before the court with any offence specified in the First Schedule, the court, if it thinks it expedient to do so, having regard to any representations made by or on behalf of the prosecutor or the accused in the presence of each other, 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) may, subject to this section, deal summarily with the offence, and, 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 High Court could have sentenced him if he were convicted of such offence in the High Court:

Provided that the court shall not sentence the accused to a term of imprisonment exceeding three years or to pay a fine exceeding four thousand dollars.

(2) If the court at any time during the hearing of a charge for such an indictable offence as aforesaid against a person who is an adult becomes satisfied after hearing any representations from the prosecutor and the accused that it is expedient to deal with the case sum-

Form 42

marily, the court shall thereupon, for the purpose of proceedings under this section, cause the charge to be reduced into writing (if this has not been already done) and read to the accused, and shall forthwith ask him the following question, "Do you plead guilty or not guilty?"

(3) Subsection (1) or (2), as the case may be, shall have effect in respect of any proceedings for an indictable offence as aforesaid whether or not those proceedings have been instituted and that offence committed before or on or after the date of the coming into operation of this section:

Provided that where an indictable offence which was triable summarily before the date of the coming into operation of this section was committed before that date the punishment which the court may impose on the accused shall not exceed a fine of two thousand dollars and imprisonment for more than two years.

(4) Where an order of committal for trial to the High Court has been made prior to the coming into operation of this section in respect of any indictable offence as aforesaid but no indictment has been filed prior thereto by the Director of Public Prosecutions in the registry of the Supreme Court, the Director of Public Prosecutions or the accused may, prior to the filing in the said registry of any indictment pursuant to such committal, apply by motion to the High Court for an order directing the court by which the order of committal was made to deal with the matter summarily under subsection (1). If the High Court grants the application, it shall remit the matter to the said court with directions to hear it summarily.

(5) Where a matter is remitted under subsection (4) the provisions of section 79 of the Criminal Law (Procedure) Act shall apply **mutatis mutandis**

Cap. 10:01.

(6) Where the court commences to deal summarily with any indictable offence as aforesaid and the accused pleads not guilty, the court shall order the prosecution to file with

the clerk of the court at least seven days before the time when the hearing is to commence copies of every statement by every witness whom the prosecution intend to call at the hearing of the charge; but the court may adjourn the hearing to such time as it thinks fit to allow further time for such copies to be filed or, if filed before such adjournment, in order that the hearing should not commence earlier than seven days after the filing of such copies.

(7) The accused, whether admitted to bail or not, shall be entitled, at his request, to be furnished by the clerk with one copy of each statement of which copies have been filed in pursuance of subsection (6) and the remaining copy thereof shall be retained by the clerk for the use of the court.

(8) Subject to subsection (9), no witness shall be called by the prosecution to give evidence during the hearing of any charge before the court for an indictable offence as aforesaid unless copies of every statement previously made by him to or for the prosecution in the course of any investigation of the offence charged have been filed with the clerk of the court under subsection (6).

(9) Nothing in this section shall be construed as requiring the prosecution to call any witness copies of whose statements have been filed, or as precluding the prosecution from calling any witness copies of whose statements have not been filed, under subsection (6):

Provided that no witness, copies of whose statements have not been so filed, shall be called unless copies of his statements are first filed with the clerk of the court and given to the accused before the witness is so called.

(10) Where a copy of any statement has been given to an accused under the proviso to subsection (9) the court may adjourn the hearing to such time as it thinks fit.

(11) Subsections (6) to (10) (inclusive) shall not apply to any proceedings —

(a) where the offence was one which was triable summarily before the date of

the coming into operation of this section and was committed before that date; or

- (b) where an order of committal for trial to the High Court was made in respect of the offence prior to that date.

(12) Notwithstanding anything to the contrary in section 37, where the court sentences a person convicted summarily of an indictable 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 three years or one half of the maximum term of imprisonment to which he might be sentenced by the court for that offence, whichever is the lesser, 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:

Provided that in the event of non-payment of a fine imposed in respect of any indictable offence which was triable summarily and was committed before the coming into operation of this section the law applicable thereto shall be that which would have applied had the foregoing provisions of this subsection not been enacted.”.

5. Section 64 of the Summary Jurisdiction (Procedure) Act is hereby amended by the deletion of paragraph (e) and the substitution therefor of the following paragraph

“(e) the provisions of sections 13 and 14 of the Criminal Law (Offences) Act and of section 218 of the Criminal Law (Procedure) Act shall, as they apply to a person convicted before the High Court of an indictable offence, apply **mutatis mutandis** to a person convicted for such an offence dealt with summarily and for that purpose any law imposing a limitation as

Amendment  
of section  
64 of the  
Summary  
Jurisdiction  
(Procedure)  
Act.  
Cap. 10:02  
Cap. 8:01  
Cap. 10:01

to the amount that may be awarded by a magistrate in the exercise of his civil jurisdiction or regulating an appeal from such an award shall be construed and have effect as if there were no such limitation:

Provided that where the indictable offence was committed before the date of the coming into operation of this paragraph the amount which the court may award under this paragraph shall not exceed that which could have been awarded at the date of the commission of the offence.”.

Re-enact-  
ment  
of the  
First Sched-  
ule to the  
Summary  
Jurisdiction  
(Procedure)  
Act.  
Cap. 10:02

6. The First Schedule to the Summary Jurisdiction (Procedure) Act is hereby deleted and the following substituted therefor —

#### “FIRST SCHEDULE

#### INDICTABLE OFFENCE BY ADULTS WHICH MAY BE TRIED SUMMARILY

1. The offences specified for the purposes of section 61 are all indictable offences against any law with the exception of indictable offences against the following provisions of the Criminal Law (Offences) Act, namely:—

Sections 51, 52, 66, 67, 69, 70, 71, 76, 77, 80, 82, 84, 90, 94, 95, 98, 99, 100, 101, 102, 103, 104, 105, 131, 134, 138, 149, 150, 151, 152, 153, 154, 155, 210, 211, 314, 316, 317, 319, and 321

2. Attempting to commit, or aiding, abetting, counselling or procuring the commission of any offence triable summarily under paragraph 1 or receiving, relieving, comforting or assisting anyone who has committed any such offence, being a felony.”.



**PART IV — MODIFICATION OF LAW RELATING TO CRIMINAL APPEALS**

7. (1) Anything in the Summary Jurisdiction (Appeals) Act to the contrary notwithstanding, any appeal from any decision given by a magistrate after the coming into operation of this Part in respect of an indictable offence dealt with summarily shall lie to the Court of Appeal.

Appeals from decisions of magistrates in indictable matters taken summarily to lie to Court of Appeal. Cap. 3:04.

(2) Subject to subsection (1), the appeal shall be made and determined in all respects in accordance with the Summary Jurisdiction (Appeals) Act, which, together with rules 24 to 28 (inclusive) of Order 46 of the Rules of the High Court, shall apply with such adaptations and modifications as are necessary to enable the appeal and any matter incidental thereto to be dealt with by the Court of Appeal and, in particular —

- (a) references in the said Act and Rules to the Full Court of the High Court or to the Chief Justice shall be read and construed as references to the Court of Appeal and to the Chancellor, respectively;
- (b) section 5 (3) of the said Act shall not apply in relation to an appeal brought by or on behalf of the Director of Public Prosecutions or by the police.

8. The Court of Appeal Act is hereby amended in the following respects —

Amendment of the Court of Appeal Act. Cap. 3:01:

- (a) by the insertion in section 11, immediately before the semicolon appearing at the end of the definition of the word “appeal”, of the words “and includes an applicant for leave to appeal”;
- (b) by the insertion immediately after the word “against” appearing in section 13 (3) of the words “conviction or”; and
- (c) by the insertion immediately after section 32 of the following section as section 32A

32A. (1) The Director of Public Prosecutions may appeal to the Court of Appeal against a decision or

Appeal to the Court of Appeal by the Director of Public Prosecutions

judgment of acquittal of the High Court in favour of an accused person arraigned or tried in its criminal jurisdiction on any ground of appeal which involves a question of law alone.

(2) On any such appeal the Court of Appeal may —

- (a) dismiss the appeal; or
- (b) allow the appeal, set aside the verdict and enter a verdict of guilty with respect to the offence of which in its opinion the accused should have been found guilty and pass a sentence that is warranted in law; or
- (c) order a new trial.

(3) Where any such appeal is brought the Court of Appeal may on the application of the Director of Public Prosecutions and after affording the accused person an opportunity of being heard issue a warrant directing that the accused person shall be arrested and brought before the Court and the Court may commit him to prison pending the determination of the appeal or admit him to bail.

(4) The provisions of this Part and of the rules applicable to an appeal to the Court of Appeal by a person convicted on indictment in the High Court shall apply with the necessary adaptations and modifications to an appeal brought by virtue of this section.”.

**PART V — EXTENSION OF JURISDICTION OF COMMISSIONER OF TITLE**

Bail Court  
jurisdiction  
of Commis-  
sioner of  
Title.

9. (1) A Commissioner of Title may exercise the jurisdiction which a judge of the High Court exercises in Bail Court in respect of such matters as may be assigned to him by the Chief Justice and for that purpose shall be vested with and may exercise the powers of a judge of the High Court.

(2) Any order of a Commissioner of Title made in exercise of the jurisdiction conferred on him by this section shall have effect as if it had been made by a judge of the High Court.

(3) For the purposes of this section the expression “Bail Court” has the meaning assigned to it in the Rules of the High Court.

**PART VI — EXTENSION OF THE CIVIL  
JURISDICTION OF MAGISTRATES**

10. Sections 3 and 4 of the Summary Jurisdiction (Petty Debt) Act are hereby amended by the substitution of the words “one thousand, five” for the word “five” wherever it appears therein.

Amendment  
of Summary  
Jurisdiction  
(Petty Debt)  
Act. Cap.  
7:01.

11. Section 44 of the High Court Act is hereby amended as follows —

Amendment  
of the  
High Court  
Act. Cap.  
3:02.

- (a) by the substitution of the words “two thousand” for the words “five hundred” appearing therein; and
- (b) by the substitution of the number “2000” for the number “5000” in the marginal note thereto.

**PART VII—MISCELLANEOUS MATTERS**

12. Section 34 of the Court of Appeal Act is hereby amended by the addition thereto of the following subsections —

Amendment  
of the  
Court of  
Appeal Act.  
Cap. 3:01.

- “(3) Notwithstanding anything to the contrary in subsection (1) the Chancellor may request the attendance at any time of any judge of the High Court to sit as an additional judge of the Court of Appeal at any sittings of the Court, and any judge whose attendance is so requested shall attend accordingly.
- (4) Every judge who sits as an additional judge of the Court of Appeal in pursuance of such a request shall, during the time he so sits, have all the jurisdiction and powers of a judge of the Court of Appeal but shall not otherwise be deemed to be a judge of that Court or to have ceased to be a judge of the High Court.
- (5) Any such additional judge of the Court of Appeal shall, although the period has expired during which his attendance was requested, attend the sitting of the Court of Appeal for the purpose of giving judgment or doing any other thing in relation to any case which may have been heard by the Court of Appeal during his attendance on the Court of Appeal.”.

13. Section 3 of the High Court Act is hereby amended by the addition thereto of the following subsections —

Amendment  
of the  
High Court  
Act.  
Cap. 3:02.

- “(4) Notwithstanding anything to the contrary in subsection (1), any judge of the Court of Appeal may, on request of the Chancellor, sit as an additional judge of the High Court.
- (5) Every judge of the Court of Appeal who sits as an additional judge of the High Court under this section shall, during the time he so sits, have all the jurisdiction and powers of, but shall not otherwise be deemed to be a judge of the High Court or to have ceased to be a judge of the Court of Appeal.
- (6) Any such additional judge of the High Court shall, although the period has expired during which his attendance was requested, attend the sittings of the High Court for the purpose of giving judgment or doing any other thing in relation to any case which may have been heard by the High Court during his attendance on the High Court.”.

Repeal and re-enactment of sections 13 and 14 of the Criminal Law (Offences) Act. Cap. 8:01

14. Sections 13 and 14 of the Criminal Law (Offences) Act are hereby repealed and the following sections substituted therefor —

13. The Court may, in its discretion, sentence any person convicted before it of an indictable offence to make compensation to any person who suffers any injury (including loss of or damage to his property) as a result of the commission of the offence; and any sum so adjudged shall be regarded and dealt with in all respects as if it were a sum awarded by a judgment of the High Court acting in the exercise of its civil jurisdiction:

Provided that where the sentence is in respect of an offence committed prior to the coming into operation of this section the compensation shall not exceed that which the court could have awarded at the time of the commission of the offence.

Effect of payment of compensation.

14. (1) Where any person who suffers any injury as aforesaid as a result of the commission of an indictable offence receives compensation for the injury under the order of the court, the receipt of that compensation shall be a bar to any action for the same injury; but, subject to the provisions of this section, nothing in this

Act shall affect the right of action of any person in respect of any such injury.

(2) Any disposition of property made by a person ordered to pay any sum by way of compensation under section 13 shall, if made subsequent to and within ten years of the date of the commission of the offence in respect of which the order was made, be voidable as against the person to whom the compensation is payable and may be levied upon and taken in execution in satisfaction of such compensation unless the person who has received it did so in good faith and for valuable consideration.”.

15. Sections 14 and 15 of the Summary Jurisdiction (Offences) Act are hereby repealed and the following sections substituted therefor —

Repeal and re-enactment of sections 14 and 15 of the Summary Jurisdiction (Offences) Act. Cap. 8:02

“Award of compensation to person injured.

14. The Court may, in its discretion, on the application of the complainant adjudge any person convicted before it of a summary conviction offence to make compensation, not exceeding one thousand five hundred dollars, to any person who suffers any injury (including loss of or damage to his property) as a result of the commission of the offence; and any sum so adjudged shall be regarded and dealt with in all respects as if it were a sum awarded by a judgment of the court under the Summary Jurisdiction (Petty Debt) Act:

Cap. 7:01

Provided that where the conviction is in respect of an offence committed prior to the coming into operation of this section the compensation awarded shall not exceed that amount which the court could have awarded at the time of the commission of the offence.

Effect of payment of compensation:

15. Where any person who suffers any injury as aforesaid as a result of the commission of a summary conviction offence receives compensation for the injury under the order of the court, the receipt of that compensation shall be a bar to any action for the same injury.”.

Amendment  
of the  
Criminal  
Law (Pro-  
cedure) Act.  
Cap. 10:01.

16. The Criminal Law (Procedure) Act is hereby amended in the following respects —

- (a) by the insertion in section 77(1), immediately after the word “time”, of the words “within six months”, and by the deletion therefrom of the words “and before the sitting of the court to which the accused person has been committed for trial”;
- (b) by the insertion immediately after the word “seizure”, wherever it appears in section 203(1), of the words “or attachment”; and
- (c) by the addition to section 203 of the following subsections as subsections (4) to (10) respectively —
  - “(4) Prior to an order being made under subsection (1) directing that immovable property be attached, notice of the proceedings therefor shall be served on such persons whom the magistrate or the Court considers to have an interest in or right over the property and upon the Registrar of Deeds.
  - (5) Any person who has been served with a notice pursuant to subsection (4) or any other person whom the magistrate or the Court is satisfied has an interest in or right over the property attached may appear before the magistrate or the Court and show cause why the property should not be attached and the magistrate or the Court may thereafter make such order as he or it sees fit.
  - (6) Where directions have been given under subsection (1) that property be sold such directions shall not, except when the property is a live animal, bird or fish or is perishable, be carried out until —
    - (a) the period specified in that subsection has expired; or
    - (b) the period allowed for making an appeal against the order has expired; or
    - (c) where such an appeal is duly made, until the appeal has been finally determined or abandoned **whichever is the latest event :**

Provided that, other than in those matters for which exceptions are made by the foregoing provisions, an order made under subsection (1) shall have effect as an order for the retention of the property by the State pending the disposal of any appeal which may have been filed against it and for that purpose the

magistrate or the Court may as he or it sees fit direct that such steps be taken to ensure the safe custody of the property including any income arising therefrom.

(7) For so long as an order made under subsection (1) or any proceedings thereunder subsist the Registrar of Deeds, notwithstanding anything to the contrary in any other law, shall not give effect to any transaction affecting any property the subject matter of the order.

(8) Nothing in this section shall be deemed to confer any power on a magistrate or the Court to order the seizure or attachment of any property in the possession of, or held in the name of, a bona fide purchaser for value who could not have been reasonably aware that such property was obtained by or was the proceeds of an indictable offence.

(9) Where any property which is sought to be attached or seized under subsection (1) is shown to have been purchased in the name of, or to have come into possession of, a person or his spouse, children or other dependants after the commission of an indictable offence of which that person is convicted and it is alleged that the proceeds of the subject matter of the offence were wholly or partly converted into that property, it shall be presumed until the contrary is shown that the property was obtained by or was the proceeds of the offence.

(10) In this section any reference to property having been obtained by, or being the proceeds of, an indictable offence or into which the proceeds of any indictable offence have been converted is a reference to property the value whereof at the time of its acquisition bears in the opinion of the magistrate or the Court a substantial ratio to the proceeds.”

17. The Summary Jurisdiction (Procedure) Act is hereby amended in the following respects —

(a) by the insertion immediately after section 9 of the following section as section 9A —

“Averment in complaint or information sufficient to confer jurisdiction.

9A. An averment in any complaint or information that an offence has been committed within a particular magisterial district shall, unless the contrary is proved, be sufficient

Amendment of the Summary Jurisdiction (Procedure) Act. Cap. 10:02.

to confer jurisdiction on a magistrate of that district to hear and determine the complaint or information, as the case may be.”; and

- (b) by the repeal of section 76 and the substitution therefor of the following section —
- ‘ Seizure and attachment of property the proceeds of a summary conviction offence.
76. The provisions of section 203 of the Criminal Law (Procedure) Act, as they apply in relation to the seizure and attachment of property being the proceeds of an indictable offence, shall apply *mutatis mutandis* in relation to seizure and attachment of property being the proceeds of a summary conviction offence.”.

Amendment of section 131 of the Defence Act: Cap. 15:01.

18. Section 131 of the Defence Act is hereby amended in the following respects —

- (a) by the substitution for subsection (3) of the following subsection :—
- “(3) An order may be made for the seizure or attachment of any property which appears to have been unlawfully obtained or to be the proceeds of any property unlawfully obtained, or into which the proceeds of any property unlawfully obtained have been converted and, upon the making of the order, directions shall be given that the property seized or attached shall be kept or sold, and that it, or the proceeds thereof if sold, shall be held as provided for by the directions until some person establishes a right thereto and, if no person establishes the right within twelve months from the seizure or attachment, the property or the proceeds thereof shall become vested in the Accountant General for the public use and be disposed of accordingly.”;
- (b) by the substitution for paragraph (e) of subsection (9) of the following paragraph as paragraph (e) —
- “such directions shall be given for securing as far as practicable the preservation of the property in the state in which it is at the time of the making of the directions including directions as to the safe custody and application of any income arising therefrom.”; and
- (c) by the substitution for subsection (11) of the following subsection —



“(11) For the purposes of any order made under subsection (3) the provisions of subsections (4) to (10) (inclusive) of section 203 of the Criminal Law (Procedure) Act shall apply *mutatis mutandis* subject to the following modifications —

- (a) references to a magistrate or the Court shall be construed and have effect as references to a court-martial;
- (b) references to property having been obtained by or being the proceeds of an indictable offence or to a person convicted of an indictable offence shall be construed and have effect as references to property having been unlawfully obtained, or to a person convicted of having unlawfully obtained property; and
- (c) references to an appeal shall be construed and have effect as references to an appeal from a court-martial.”.

19. Section 36 of the Motor Vehicles and Road Traffic Act is hereby amended by the substitution of the following subsection for subsection (1) thereof —

Amendment  
of section 36  
of the  
Motor Ve-  
hicles and  
Road Traffic  
Act.  
Cap. 51:02

“(1) Every person who drives a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might be reasonably expected to be, on the road, shall be liable —

- (a) on summary conviction to a fine of five hundred dollars or to imprisonment for six months and in the case of a second or subsequent conviction to a fine of one thousand dollars and to imprisonment for six months;
- (b) on conviction on indictment to a fine of two thousand dollars and to imprisonment for two years.”.

20. Paragraph 3 of Part 11 of the Fifth Schedule to the Exchange Control Act is hereby amended by the substitution for the words “three months” and the words “two years” of the words “two years” and “four years” respectively.

Amendment  
of the  
Fifth Schedules to the  
Exchange  
Control Act  
Cap. 86:01

## EXPLANATORY MEMORANDUM

This Bill seeks to make a number of amendments to the existing laws for the purpose of improving the administration of justice, and in particular for the purpose of expediting the trial of persons accused of committing certain indictable offences.

To facilitate the making of the amendments relating to the summary trial of indictable offences, clause 2 of the Bill seeks to amend the Constitution so as to enable Parliament to confer on any court any part of the jurisdiction and powers of the High Court. In addition the clause seeks to amend Chapter VII of the Constitution so as to enable a Justice of Appeal to sit temporarily in the High Court and, correspondingly, to enable a High Court Judge to sit temporarily in the Court of Appeal.

Clauses 3, 4 and 6 of the Bill seek to enlarge the category of indictable offences which may be tried summarily by a magistrate. Any party may make representations as to whether or not any such offence should be tried summarily, but the decision whether the offence should be so tried will be made by the magistrate. The magistrate is also being given power to decide in his discretion whether more than one criminal matter may be dealt with together. Further, clause 4 seeks to empower the magistrate to impose on a person who is summarily convicted of an indictable offence a maximum sentence of imprisonment for three years or for the payment of a fine of four thousand dollars.

It is anticipated that the effect of the proposed amendments will be to relieve the High Court of a number of less serious indictable matters which have congested the work of the court for some time now. Such matters may now be dealt with more speedily by a magistrate.

Clause 5 seeks to empower a magistrate to exercise in respect of a person convicted summarily of an indictable offence such powers relating to the awarding of compensation to persons who have been damaged by the commission of certain offences as are vested in the High Court by sections 13 and 14 of the Criminal Law (Offences) Act.

Clause 7 seeks to provide for appeals from decisions of magistrates in indictable matters tried summarily to lie to the Court of Appeal instead of to the Full Court of the High Court.

Clause 8 seeks to amend the Court of Appeal Act to enable the Director of Public Prosecutions to appeal on grounds of law against a judgment or verdict of acquittal of the High Court in favour of an accused person arraigned or tried on indictment. In addition, the Court of Appeal is being given power to vary a sentence whether an appeal by the accused is brought against sentence or against conviction.

Clause 9 seeks to confer on a Commissioner of Title jurisdiction to hear and determine matters which are now dealt with in the Bail Court by a Judge of the High Court. This provision will assist in expediting the civil work of the High Court.

Clauses 10 and 11 seek to extend the civil jurisdiction of magistrates from five hundred dollars to fifteen hundred dollars and to amend section 44 of the High Court Act to enable civil claims not exceeding two thousand dollars to be brought against the State in a magistrate's court.

Clauses 12 and 13 prescribe the procedure for making temporary judicial assignments of the kind visualised in clause 2 (b).

Clause 14 seeks to amend the existing provisions of the law so as to make it clear that where a person has suffered any injury (including loss or damage to his property) as the result of the commission of an indictable offence of which a person is found guilty, the sentence of the court may include an order for full compensation to be paid in respect of the injury suffered. Similar amendments are made under clause 15 in relation to the commission of summary conviction offences, though an award in respect thereof is limited to the sum of fifteen hundred dollars.

Clause 16 seeks to provide the Director of Public Prosecutions with more flexibility in filing indictments and to extend to immovable property the power conferred by section 203 of the Criminal Law (Procedure) Act upon Judges and Magistrates to order the recovery of property which has been obtained by the commission of indictable offences or which has been acquired with the proceeds of property so obtained.

Clause 17 seeks to simplify and remove technicalities concerning proof of jurisdiction in criminal matters before a magistrate.

In addition, the clause seeks to amend section 76 of the Summary Jurisdiction Act in a manner similar to the amendment proposed by clause 16 to the Criminal Law (Procedure) Act for the purpose of rendering immovable property subject to the powers exercisable by a magistrate under that section.

Clause 18 seeks to amend section 131 of the Defence Act to empower a court-martial to secure the recovery of any property which has been unlawfully obtained or which has been acquired with the proceeds of any property so obtained. The power of recovery is made exercisable even in relation to immovable property, and it will extend not only to the offender, but also to any person who is in possession of the property unless he was a *bona fide* purchaser for value.

Clause 19 seeks to amend section 36 of the Motor Vehicles and Road Traffic Act to create the indictable offence of reckless or dangerous driving with appropriate penalties.

Clause 20 seeks to increase penalties for certain exchange control offences. In accordance with established law the increase will apply only in respect of offences committed after the coming into operation of the clause.

*M. Shahabuddeen,*  
Attorney General and Minister of Justice.

(Bill No. 20/1978)