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The following Bill which was introduced in the National Assembly is published for general information.

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



**GUYANA**

**BILL No. 5 OF 1999**

**SUMMARY JURISDICTION (LAY MAGISTRATES) BILL 1999**

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### A BILL Intituled

AN ACT for the constitution of lay magistrates' courts; for the appointment of lay magistrates; for the regulation of their jurisdiction, practice and procedure and for other like purposes.

A.D. 1999

Enacted by the Parliament of Guyana:-

Short title

1. This Act may be cited as the Summary Jurisdiction (Lay Magistrates) Act 1999.

Lay magistrates' courts.

2. (1) There shall be established such number of lay magistrates' courts as the Minister, after consultation with the Chancellor, may determine.

(2) A lay magistrates' court shall be presided over by a person to be called a lay magistrate and shall, in accordance with the provisions of this Act, exercise both criminal and civil jurisdiction.

Jurisdiction, assignment of lay magistrates

3. Every lay magistrate shall have jurisdiction throughout Guyana and may be assigned to any magisterial district by the Chancellor.

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4. A person shall be qualified to be appointed a lay magistrate if he is a fit and proper person with at least seven years' experience in a senior position in a public sector or private sector field of activity.

Qualification for appointment as a lay magistrate

5. A lay magistrate acting judicially shall not be liable to be sued in any civil court for any act done or ordered by him to be done in the performance of his judicial functions whether or not within the limits of his jurisdiction, if at the time, he in good faith believed himself to have jurisdiction to do or order to do the act complained of.

Protection of lay magistrates

6. (1) There shall be appointed for every lay magistrates' court a fit and proper person to be or to act as clerk of that court.

Clerk.

(2) The clerk shall, in addition to such other functions as may be prescribed by the Chancellor, discharge the functions referred to in section 8 and those assigned to him by the lay magistrate.

(3) The clerk shall be subject to the general supervision and control of the Chancellor, but shall be under the immediate supervision of the lay magistrate presiding over the court of which he is the clerk.

7. No person shall be appointed as a clerk to a lay magistrates' court unless at the time of appointment he holds a Bachelor of Laws degree of a university of any Commonwealth country or any equivalent qualification or in the opinion of the Chancellor is a fit and proper person to be appointed as a clerk.

Qualifications for appointment as a Clerk

8. (1) It is hereby declared that the functions of a clerk include the giving to the lay magistrate to whom he is clerk, as and when required by the lay magistrate, such advice within his competence about law, practice or procedure on questions arising in connection with the discharge of his functions, and it shall be the duty of the clerk to bring to the attention of the lay magistrate any point of law, practice or procedure that is or may be involved in any questions so arising.

Powers and duties of a clerk

(2) Without prejudice to subsection (1), the duties of the clerk, shall be such as may be assigned by the Chancellor and, where appropriate, shall include those duties specified under section 23 of the Summary Jurisdiction (Magistrates) Act so far as those duties apply to the aforesaid clerk.

Cap 105

9. (1) A lay magistrates' court may try offences the punishment for which does not exceed a fine of ten thousand dollars and such offences shall include those mentioned in the Schedule, which may be amended by the Minister.

Criminal jurisdiction of a lay magistrates' court Schedule

(2) A lay magistrates' court may on conviction for an offence impose a punishment within the limits of its jurisdiction, but shall have no power to impose a custodial sentence.

Summary trial of case

10. Where a person charged with committing an offence stated by the enactment creating the offence to be triable summarily, a lay magistrates' court, presided over by a lay magistrate, may try such offence if the monetary punishment therefor does not exceed the punishment mentioned in section 9(1).

Civil jurisdiction of a lay magistrates' court

11. A lay magistrates' court may hear and determine civil causes or matters where the subject matter in dispute, if capable of being estimated at a money value, does not exceed twenty-five thousand dollars.

Area of jurisdiction

12. The jurisdiction of a lay magistrates' court shall extend only to causes and matters arising within the magisterial area of its jurisdiction.

Jurisdiction of a magistrates' court unaffected Cap 3:05

13. Nothing in this Act shall affect or be deemed to affect the jurisdiction of a magistrates' court under the Summary Jurisdiction (Magistrates) Act.

Promotion or reconciliation in criminal cases

14. In all cases a lay magistrates' court shall promote reconciliation, and encourage and facilitate the settlement in an amicable way, of proceedings for common assault or for any other offence of a personal or private nature not amounting to felony and not aggravated in degree, on terms of payment of compensation or other terms approved by the court and may thereupon order the proceedings to be stayed.

Transfer of case in course of inquiry or trial Cap 3:05

15. (1) If in the course of any inquiry or trial before a lay magistrate the evidence appears to warrant a presumption that the case is one which should be tried by a magistrate, under the Summary Jurisdiction (Magistrates) Act, he shall stay the proceedings and submit the case with a brief report thereon to any magistrate holding a magistrates' court in the said magisterial district in which the lay magistrate is holding court and the said magistrate shall hear the case submitted unless he makes objection to hearing the particular case to the Chancellor, giving reasons therefor.

(2) If upon the conclusion of a trial, a party is dissatisfied with the decision, the lay magistrate shall transfer the case to be heard de novo by any magistrate holding a magistrates' court in the said magisterial district in which the lay magistrate is holding court.

Adjournments

16. (1) Before or during the hearing of any case, a lay magistrate may in his discretion adjourn the hearing, subject to the provisions

of this section, to a time and place appointed by him in the presence and hearing of the parties or of their counsel.

(2) If a lay magistrate is not present at the time and place of hearing, the clerk authorised in that behalf by the lay magistrate may, by public notice, written or oral, adjourn the sitting until such time and to such place as may be stated in the notice and all persons bound to be present at the sitting so adjourned shall be equally bound to be present at the time and place appointed by such notice.

(3) In the absence of a notice under subsection (2) all persons bound to be present at the sitting shall be bound to be present at the next succeeding time appointed for the sitting of the court at the same place.

(4) No adjournment under this section shall be for more than seven clear days.

17. When any day appointed for the sitting or adjourned sitting of the court falls on a Sunday or a public holiday, the court may if practicable sit on the day (not being a public holiday) next after the day appointed for such sitting.

Sundays or public holidays

18. In civil causes or matters a lay magistrate shall, as far as there is proper opportunity, promote reconciliation among persons over whom he has jurisdiction, and encourage and facilitate the settlement in an amicable way and without recourse to litigation in the matters in dispute between them.

Promotion of reconciliation in civil causes

19. Where a lay magistrate who has commenced any proceedings, whether civil or criminal, ceases to act as a lay magistrate, any lay magistrate who succeeds him or acts in his place may hear and determine the proceedings de novo.

Part heard proceedings

20. (1) Where a lay magistrates' court imposes a fine or gives judgment in a civil cause but the fine is not paid within the time allowed by the lay magistrate or the civil judgment is not complied with, the lay magistrate shall transfer the record of the proceedings to any magistrate holding a magistrates' court in the said magisterial district in which the lay magistrate is holding court.

Enforcement of fine or judgment

(2) Upon receipt of the record of the proceedings, the magistrate shall instruct his clerk to stamp the record with stamp of the magistrates' court, initial it and enter a note of the record in a book kept for that purpose and thereupon the decision of the lay magistrate shall be deemed to be the decision of the magistrate and subsequent proceedings may

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accordingly be taken to enforce such fine or judgment, the fine being deemed a civil debt due to the State.

Rules of court.

21. (1) The Chancellor may make rules of court to regulate the practice and procedure to be followed in lay magistrates' courts in both criminal and civil matters, and without prejudice to the generality of the foregoing, rules of court made under this section may regulate all or any of the following matters, that is to say -

- (a) the duties of clerks;
- (b) the distribution of business between lay magistrates and between lay magistrates' courts;
- (c) the forms to be used and matters connected therewith;
- (d) the receipt of money paid into court received or recovered under this Act or by virtue of any process;
- (e) the records and returns of cases of the lay magistrates' court;
- (f) the fees, cost and matters connected therewith;
- (g) the payment out of court of all moneys to the persons entitled thereto;
- (h) the service and execution of process;
- (i) the enforcement of judgment debt;
- (j) any other matters for the purposes of the better carrying into effect of this Act.

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(2) Until rules under subsection (1) are made, the practice and procedure to be followed by a lay magistrates' court shall be regulated-

Cap 10 02

(a) in its criminal jurisdiction in respect of summary conviction offences, by the Summary Jurisdiction (Procedure) Act and by any other written law relating thereto;

Cap 7 01

(b) in its civil jurisdiction, by the Summary Jurisdiction (Petty Debt) Act and by any other written law relating thereto including the Summary Jurisdiction (Magistrates) Money Regulation and the Summary Jurisdiction (Civil Procedure) Rules,

Cap 1 05

subject to such modifications as the Chanœllor may deem necessary or expedient.

## SCHEDULE

### SUMMARY JURISDICTION OFFENCES

#### OFFENCES INVOLVING BREACH OF THE PEACE

profane language

indecent language

abusive language

disorderly behaviour

threatening behaviour

fighting in public

indecent exposure

drunkenness in public

provoking a breach of the peace

malicious damage to property

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Cap 8:02

placing goods over the public way in a town and those other offences referred to in Section 153 of the Summary Jurisdiction (Offences) Act.

**TRAFFIC OFFENCES**

mini-bus overloading

hire-car overloading

failure to conform to traffic sign

defective motor vehicles including motor cycles

unlicensed drivers or riders of motor cycles

uncertificd vehicles as to fitness, roadworthiness

unkempt drivers of hire cars and mini-buses

**LICENCE AND REVENUE OFFENCES**

offences relating to weights and measures in Georgetown and the towns and their environs, other than in their municipal markets unlicensed radio and other transmitting devices

**OFFENCES AGAINST THE CITY AND TOWN COUNCILS**

public health offences with respect to restaurants and eating houses littering parapets, sidewalks, alleyways, etc.

untidy yards and surroundings

incorrect weights and measures in the municipal markets

encumbering parapets

**CRUELTY TO ANIMALS**

offences relating to cruelty to animals.



### EXPLANATORY MEMORANDUM

This Bill, as the long title states, provides for the constitution of Lay Magistrates' Courts, the appointment of such magistrates and for the regulation of their jurisdiction, practice and procedure.

The law as regards the present magistrates remains unchanged and magistrates and lay magistrates will work side by side in the magisterial districts.

A lay magistrate shall have jurisdiction throughout Guyana. Fit and proper persons with certain experience may be appointed as lay magistrates, who would be protected when acting judicially (clauses 3, 4 and 5).

A lay magistrate shall be assisted by a clerk, preferably with legal qualifications (clauses 6, 7 and 8).

A lay magistrate may try any criminal offence triable summarily if the punishment does not exceed ten thousand dollars. He may try a civil case where the dispute does not exceed twenty-five thousand dollars (clauses 9, 10 and 11).

It is the duty of a lay magistrate to promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings of common assault and non felonious offences. Likewise in civil cases he should promote reconciliation and encourage and facilitate the settlement of disputes without recourse to litigation (clauses 14 and 18).

A lay magistrate may transfer a case to a magistrate in the same magisterial district where from the nature of the case, the evidence warrants this. A lay magistrate may also adjourn a case as he sees fit (clauses 15 and 16).

The Chancellor is empowered to make rules of court to regulate the practice and procedure to be followed by lay magistrates. Until such rules are made the practice and procedure to be followed by lay magistrates' courts in their criminal jurisdiction shall be regulated by the Summary Jurisdiction (Procedure) Act, Cap. 10:02, and in their civil jurisdiction by the Summary Jurisdiction (Petty Debt) Act, Cap. 7:01, the Summary Jurisdiction (Magistrates) Money Regulations and the Summary Jurisdiction Rules.

C. Ramson,  
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Minister of Legal Affairs.