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## CHAPTER 20

## MAGISTRATES' COURTS

AN ACT TO PROVIDE FOR THE CONSTITUTION OF MAGISTRATES' COURTS, FOR THE APPOINTMENT OF MAGISTRATES AND OTHER OFFICERS THEREOF AND OF JUSTICES OF THE PEACE, AND FOR THE REGULATION OF THEIR DUTIES AND JURISDICTION, AND FOR APPEALS FROM MAGISTRATES' COURTS

11 of 1961  
12 of 1963  
8 of 1965  
4 of 1968  
4 of 1969  
8 of 1971  
16 of 1976  
LN 46A of 1978  
LN 88 of 1978  
6 of 1979  
4 of 1981

[1st June 1962]

## PART I

## PRELIMINARY

1. This Act may be cited as the Magistrates' Courts Act.
2. (1) In this Act, unless the context otherwise requires—
  - “Bailiff” means a person appointed to be a Bailiff pursuant to section 15 and includes any assistant Bailiff or any other person assisting a Bailiff in the performance of his duties;
  - “cause” shall include any action, suit, or other original proceeding between a plaintiff and a defendant and any criminal proceeding;
  - “cause of action” in suits founded on contract shall not necessarily mean the whole cause of action; but a cause of action shall be deemed to have arisen within the jurisdiction if the contract was made therein, though the breach may have occurred elsewhere, and also if the breach occurred within the jurisdiction, though the contract may have been made elsewhere;
  - “Clerk of Court” and “Clerk” mean any person appointed to be a Clerk of Court pursuant to section 12 and includes any assistant Clerk and any other person assisting a Clerk in the performance of his duties;
  - “criminal” includes quasi-criminal, and, with reference to matters of jurisdiction, comprehends all such matters not falling within the term “civil”;
  - “district” means a district constituted in the manner prescribed in section 50;
  - “English” includes Solomon Islands pidgin;

Short title

Interpretation  
16 of 1976, s. 2  
LN 46A of 1978  
4 of 1981, s. 3

Cap. 19

“judgment” and “decree” shall be deemed synonymous terms;

“legal practitioner” means any person entitled to practise in the High Court in accordance with the provisions of any law for the time being in force;

“Local Court” means any court established under and by virtue of the Local Courts Act or any Act repealing and replacing the same;

“matter” includes every proceeding in a court not in a cause;

Cap. 110

“Police Force” means the Solomon Islands Police Force established by the Police Act;

“Principal Magistrate” means a Principal Magistrate appointed under section 7;

“Rules of Court” means Rules of Court made under this Act;

“Sheriff” means any person for the time being acting as Sheriff of the High Court and includes any Deputy Sheriff or Under Sheriff and any person lawfully authorised to execute the process of the High Court or any Magistrate’s Court;

“suit” includes action, and means a civil proceeding commenced by writ of summons or in such other manner as may be prescribed by Rules of Court, and does not include a criminal proceeding.

(2) The expressions “Magistrate”, “Magistrate’s Court” or “Magistrates’ Courts” shall, unless otherwise specified or the context otherwise requires, include reference to a Principal Magistrate or a Principal Magistrate’s Court, as the case may be.

## PART II

### CONSTITUTION OF THE COURTS

Establishment of  
Magistrates’  
Courts  
16 of 1976, s. 3  
6 of 1979, s. 2

3. (1) There shall be and are hereby constituted throughout Solomon Islands courts of summary jurisdiction, to be known respectively as Principal Magistrates’ Courts and Magistrates’ Courts of the First Class or of the Second Class subordinate to the High Court.

(2) There shall be in each district such Magistrates’ Courts as the Chief Justice may direct.

(3) Any power, authority, function or discretion vested in a Magistrate’s Court by this or any other Act or law shall be

possessed and may be exercised by a Magistrate having adequate jurisdiction.

(4) Every Magistrate's Court shall be a Court of Record.

4. (1) A Principal Magistrate's Court shall exercise jurisdiction throughout Solomon Islands.

Territorial limits  
of jurisdiction of  
Magistrates'  
Courts  
*16 of 1976, s. 4*

(2) Subject to any express provisions of this or any other Act, every Magistrate's Court shall exercise jurisdiction within the limits of the district within which it is situated:

Provided that when there is more than one Magistrate's Court in the same district, the Chief Justice may direct the distribution of business between such Courts.

(3) The jurisdiction of each Magistrate's Court shall extend over any territorial waters adjacent to the district in which it is situated as well as over inland waters whether within or adjacent to such district.

5. Magistrates' Courts shall use seals of such nature and pattern as the Governor-General shall approve.

Seals  
*LN 46A of 1978*

6. The power of the High Court to deal with any contempt of its authority shall extend to upholding the authority of Magistrates' Courts.

Contempt of  
Court

### PART III

#### OFFICERS OF THE COURT

7. Any person appointed pursuant to the Constitution to be a Magistrate may be empowered by the Chief Justice by warrant under his hand and the seal of the High Court to hold a Principal Magistrate's Court or a Magistrate's Court of the First Class or of the Second Class and to exercise all the powers and jurisdiction conferred by this or any other Act upon a Principal Magistrate's Court or a Magistrate's Court of the First Class or of the Second Class, as the case may be:

Appointment of  
Magistrates  
*6 of 1979, s. 3*

Provided that the Chief Justice may, by the terms of any such warrant restrict the powers to be exercised by any such person in such extent as he may think fit, and thereupon such person shall have and exercise the powers and jurisdiction conferred by this or any other Act only to the extent authorised.

8. Subject to the terms of his appointment, every Magistrate may exercise jurisdiction throughout Solomon Islands but may

Territorial  
jurisdiction  
*LN 46A of 1978*

be assigned by the Chief Justice to any particular district or districts and transferred from one district to another. Notwithstanding any such assignment a Magistrate so assigned may, without special notification or appointment to that effect, exercise jurisdiction in any other district or districts.

Procedure where Magistrate is unable to adjudicate on any cause or matter by reason of personal interest, etc.

**9.** Where a Magistrate is a party to any cause or matter, or is unable, from personal interest or any other sufficient reason, to adjudicate on any cause or matter, the Chief Justice shall direct some other Magistrate to act instead of such aforesaid Magistrate for the hearing and determination of such particular cause or matter, or shall direct that such cause or matter shall be heard and determined in a Magistrate's Court in any other district.

Records and returns

**10.** Every Magistrate's Court shall keep such written records and furnish such returns as may be provided by this Act or as the Chief Justice may from time to time direct.

Powers and functions of justices of the peace

**11.** Subject to the provisions of this and of any other Act, every justice of the peace shall, subject to any exceptions which may be contained in his appointment, within the area in and for which he holds such office, have—

(a) all the powers, rights and duties of a Magistrate under this or any other Act to—

(i) issue summonses and warrants for the purpose of compelling the attendance of accused persons or persons as witnesses before a Court;

(ii) issue search warrants; and

(b) such other powers and rights and shall perform such duties of Magistrates as may be conferred or imposed upon him by Rules of Court made under this or any other Act not involving the trial of causes or, in criminal cases, the holding of preliminary investigations.

Clerks of Court

**12.** There shall be a Clerk of Court attached to each Magistrate's Court who shall be appointed by the Chief Justice or by a Judge and shall, subject to the general supervision and control of the Chief Justice, be under the immediate direction and control of the Magistrate for the time being exercising the jurisdiction of the Magistrate's Court to which he is attached:

Provided that in the event of the absence or incapacity of a Clerk of Court the Magistrate may appoint any person



temporarily to perform the duties of Clerk of the Court or may himself perform any such duties.

**13.** The duties of every Clerk of Court shall be—

Duties of Clerks  
of Court

(a) to attend at such sittings of the Magistrate's Court as the Magistrate exercising its jurisdiction may direct;

(b) to fill up or cause to be filled up all summonses, warrants, orders, convictions, recognisances, writs of execution, and other documents and to submit the same for the signature of such Magistrate;

(c) to issue civil processes in accordance with the Rules of Court for the time being in force;

(d) to make or cause to be made copies of proceedings when required to do so by such Magistrate, and to record the judgments, convictions and orders of the Magistrate's Court;

(e) to receive or cause to be received all fees, fines and penalties, and all other moneys paid or deposited in respect of proceedings in the Magistrate's Court, and to keep or cause to be kept accounts of the same; and

(f) to perform or cause to be performed such other duties as may be assigned to him by such Magistrate.

**14.**—(1) The Sheriff shall be charged with the execution of all orders and processes of the Magistrate's Court and for this purpose shall have the same powers, authority and immunities as may be conferred upon him by the law for the time being in respect of the orders and process of the High Court.

Sheriff

(2) Every duty of the Sheriff in execution of any process of the Court may be performed by such officers, non-commissioned officers or constables of the Police Force, or other persons, as may be authorised by the Sheriff; and any officer, non-commissioned officer, constable or other person who is in possession of any such process shall be deemed to be duly so authorised, and shall for all purposes of such execution, and connected therewith, be an officer of the Court.

(3) The Sheriff shall not be liable to be sued for any act or omission of any officer, non-commissioned officer, or constable, or other person, in the execution of any process which shall have been done or may have occurred, either through disobedience or neglect of the orders or instructions given by the Sheriff, or in the absence of any order or instructions given by the Sheriff.

## Bailiffs

**15.** The Bailiffs shall be appointed by the Sheriff, with the approval of the Magistrate exercising the jurisdiction of the Magistrate's Court to which they are to be attached, and may themselves or by their assistants, serve and execute any process issued out of the Magistrate's Court; and when so directed by such Magistrate they shall attend such Court and obey all the directions of the Magistrate for preserving order and decorum therein.

## Other officers

**16.** The Chief Justice may from time to time, appoint such other officers as may be necessary for the efficient exercise of jurisdiction by Magistrates' Courts and may attach such officers to any Magistrate exercising judicial functions in a Court under the provisions of this Act.

## Transfer of officers

**17.** The Chief Justice may transfer any officer attached to any Magistrate's Court from time to time to any other Magistrate's Court, either for temporary or permanent duty.

## PART IV

## JURISDICTION OF MAGISTRATES' COURTS

Powers of Magistrates' Courts  
*LN 46A of 1978*

**18.** Subject to any other provision of this Act and to the provisions of any other law for the time being in force in Solomon Islands every Magistrate's Court shall have and exercise jurisdiction in civil and criminal matters as in this Act provided.

Civil jurisdiction  
*4 of 1969, s. 6*  
*8 of 1971, s. 22*  
*LN 46A of 1978*  
*16 of 1976, s. 8*  
*6 of 1979, s. 4*

**19. (1)** In civil causes and matters a Magistrate's Court, in addition to any other jurisdiction conferred upon it by any other Act or law, shall have jurisdiction within the limits of the district within which it is situated—

(a) in all personal suits including counter-claim and set-off, whether arising from contract, or from tort, or from both, where the value of the property, the debt or damage claimed, whether as balance of account or otherwise, is not more than one thousand dollars or, in the case of a Principal Magistrate's Court, two thousand dollars;

(b) in all suits between landlord and tenant for possession of any lands or houses claimed under agreement or refused to be delivered up, where the annual value or rent does not exceed the sum of five hundred dollars or, in the case of a Principal Magistrate' Court, two thousand dollars;

(c) to appoint guardians of infants and to make orders for the custody of infants;

(d) to grant in any suit instituted in the Magistrate's Court injunctions or orders to stay waste or alienation or for the detention and preservation of any property the subject of such suit, or to restrain torts or breaches of contracts;

(e) in all claims for relief by way of interpleader in respect of land or other property attached in execution of a decree made by any Magistrate:

Provided that jurisdiction conferred by this paragraph shall not, unless the parties consent, be exercisable in respect of land or other property exceeding five hundred dollars in value or, in the case of a Principal Magistrate's Court, two thousand dollars in value;

(f) to enforce by attachment and sale or delivery any order or judgment made by the Magistrate's Court or any other competent court;

(g) to commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him, in pursuance of any order or judgment of the Magistrate's Court or any other competent court:

Provided that such jurisdiction shall only be exercised where it is proved to the satisfaction of the Magistrate's Court that the person making default either has, or has had since the date of the order or judgment, the means to pay the sum in respect of which he has made default, and has refused or neglected or refuses or neglects to pay the same:

For the purposes of this paragraph, any Magistrate's Court may direct any debt due from any person, in pursuance of any order or judgment of that Court, or any other competent court, to be paid by instalments, and may, from time to time vary or rescind such order.

(2) In subsection (1) the expression "competent court" shall include the High Court and any Local Court.

(3) Notwithstanding the provisions of subsection (1) no Magistrate's Court shall have jurisdiction—

(a) in suits wherein the title to any right, duty, or office is in question; or

(b) in suits wherein the validity of any will or other testamentary writing or of any bequest or limitation under any will or settlement is in question; or

(c) in suits wherein the legitimacy of any person is in question; or

(d) in suits wherein the validity or dissolution of any marriage is in question; or

(e) in any action for malicious prosecution, defamation, seduction or breach of promise of marriage.

(4) Magistrates' Courts of the Second Class shall have and exercise jurisdiction in civil cases similar in all respects to that set out in subsection (1) save that such jurisdiction, in cases where the subject-matter in dispute is capable of being estimated at a money value, shall be limited to causes in which such subject-matter does not exceed two hundred dollars in amount or value.

(5) Where in any action the debt or demand consists of a balance not exceeding two thousand dollars, after an admitted set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, a Magistrate's Court shall have jurisdiction and power to hear and determine such action within the limits of its jurisdiction and power.

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(6) Subject to the provisions of the Land and Titles Act, if, in any suit or civil cause or matter before a Magistrate's Court, the title to any land is disputed, or the question of the ownership thereof arises, the Court may adjudicate thereon if all the parties interested consent; but if they do not consent the Magistrate exercising the jurisdiction of the Court shall apply to the High Court to transfer such cause or matter to itself.

Abandonment of  
part of claim to  
give court  
jurisdiction  
16 of 1976, s. 9

20. (1) Where a plaintiff has a cause of action for more than two thousand dollars, one thousand dollars or two hundred dollars, as the case may be, in which—

(a) if it were not for more than two thousand dollars, a Principal Magistrate's Court would have jurisdiction;

(b) if it were not more than a thousand dollars, a Magistrate's Court of the First Class would have jurisdiction; and

(c) if it were not for more than two hundred dollars, a Magistrate's Court of the Second Class would have jurisdiction,

the plaintiff may abandon the excess, and thereupon a Principal Magistrate's Court or a Magistrate's Court of the First Class or of the Second Class, as the case may be, shall have jurisdiction to hear and determine the action so, however, that the plaintiff

shall not recover in the action an amount exceeding two thousand dollars in a Principal Magistrate's Court, one thousand dollars in a Magistrate's Court of the First Class or two hundred dollars in a Magistrate's Court of the Second Class.

(2) Where a Magistrate's Court has jurisdiction to hear and determine an action by virtue of this section, the judgment of the Court in the action shall be in full discharge of all demands in respect of the cause of action, and entry of the judgment shall be deemed to be made accordingly.

21. No cause of action shall be split or divided so as to be made the ground of two or more different actions for the purpose of bringing two or more actions in any Magistrate's Court.

Division of  
causes of action  
4 of 1969, s. 7

22.—(1) Where—

(a) any party appearing or being present in any Magistrate's Court, upon being required so to do by that Court for the purpose of framing issues, refuses without reasonable excuse to be orally examined by the Court or to produce any document then and there in his possession; or

(b) the defendant, in the opinion of the Court, fails, by himself or by his counsel, solicitor or other representative to disclose any reasonable ground of defence; or

(c) any party being required by an order made by a Magistrate's Court under Rules of Court to produce to that Court any document or to attend at any sitting of that Court, fails without reasonable excuse to obey the same,

Summary  
judgment  
4 of 1969, s. 7

the Court may pronounce such judgment against him and in such terms as it thinks fit or make such order and impose such terms as to costs, payment into court, giving of security or otherwise as it thinks fit.

(2) Whenever, in the opinion of any Magistrate's Court, the issues are sufficiently established for the immediate determination of the cause, the Court may pronounce judgment forthwith in such terms as it shall think fit.

23. Where a claim is for a debt or for liquidated damages only and the defendant—

(a) admits a sum less than the amount claimed; or

(b) in the opinion of the Magistrate's Court fails, by himself or by his counsel, solicitor or other representative, to disclose any reasonable ground of defence with respect to part of the claim; or

Summary  
judgment for part  
of a claim  
4 of 1969, s. 7

(c) has a counterclaim and it appears to the Court that the maximum amount which could be recovered thereunder, if the counterclaim were to be upheld, is less than the amount of the claim,

the Court may, if it thinks fit, enter judgment forthwith for the sum so admitted or for the sum in respect of which no reasonable ground of defence is disclosed or for a sum representing the difference between the amount of the claim and the maximum amount which appears to be recoverable on the counterclaim, as the case may be, with or without costs, and may permit execution to be levied forthwith on such judgment, without prejudice to the hearing and determination of the matters remaining in dispute between the parties.

Proceedings not to be set aside for want of form  
*4 of 1969, s. 7*

**24.** No action or other proceedings in any Magistrate's Court shall be treated or considered as invalid or subject to be set aside on account of any verbal or technical error or other defect in form and any such error or defect may in any such case be corrected by the Court.

Law and equity

**25.—(1)** In every civil cause or matter which shall be instituted in any Magistrate's Court law and equity shall be administered concurrently.

(2) In exercise of any jurisdiction vested in him by this Act, any Magistrate shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as shall seem just, all such remedies or relief whatsoever, interlocutory or final, as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim or defence properly brought forward by them respectively, or which shall appear in such cause or matter; so that as far as possible all matters in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

(3) In all causes or matters in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same subject the rules of equity shall prevail.

Extension of civil jurisdiction

**26.** The Chief Justice may, by order under his hand and the seal of the High Court, authorise an increased jurisdiction in civil causes and matters to be exercised by the Magistrate named in any such order, within the district prescribed in the order, and to the extent specified in the order. Such an order may at any time

be revoked by the Chief Justice by an instrument under his hand and the seal of the High Court.

27. (1) Subject to the provisions of any other law for the time being in force, a Principal Magistrate's Court shall have jurisdiction to try summarily any criminal offence—

Criminal  
jurisdiction  
16 of 1976, s. 10

(a) for which the maximum punishment prescribed by law for such offence does not exceed—

- (i) fourteen years' imprisonment; or
- (ii) a fine; or
- (iii) both such imprisonment and such fine; or

(b) in respect of which jurisdiction is by any law expressly conferred upon a Principal Magistrate's Court or it is expressly provided that such offence may be tried summarily:

Provided that the maximum punishment which a Principal Magistrate's Court may impose shall not exceed—

- (i) a term of imprisonment for five years; or
- (ii) a fine of one thousand dollars; or
- (iii) both such imprisonment and such fine.

(2) Subject to the provisions of any other law for the time being in force, a Magistrate's Court of the First Class or of the Second Class shall have jurisdiction to try summarily any criminal offence—

(a) for which the maximum punishment prescribed by law for such offence does not exceed—

- (i) imprisonment for a term of one year; or
- (ii) a fine of two hundred dollars; or
- (iii) both such imprisonment and such fine; or

(b) in respect of which jurisdiction is by any law expressly conferred upon a Magistrate's Court of the First Class or of the Second Class or it is expressly provided that such offence may be tried summarily; or

(c) for which any penalty is expressly provided in respect of a conviction by a Magistrate's Court of the First Class or of the Second Class.

(3) Notwithstanding the provisions of the preceding subsections, the Chief Justice in respect of a particular class of offence, or a Judge in respect of a particular case, may by order under his hand and the seal of the High Court invest a

Magistrate's Court with jurisdiction to try an offence which would otherwise be beyond its jurisdiction:

Provided that in no case shall the sentence imposed exceed, in the case of a Principal Magistrate's Court, the maximum punishment specified in the proviso to subsection (1) or, in the case of any other Magistrate's Court, the maximum punishment specified in paragraph (a) of subsection (2).

(4) In the case of consecutive sentences imposed by a Magistrate's Court in respect of two or more distinct offences arising out of the same facts it shall not be necessary for such Magistrate's Court to send the offender for trial before a Principal Magistrate's Court or the High Court, as the case may be, by reason only that the aggregate punishment for the several offences in respect of which such sentences are imposed is in excess of the punishment which it is competent to impose on conviction for a single offence:

Provided that the aggregate punishment imposed in the form of consecutive sentences shall not exceed twice the amount of the punishment which such Magistrate's Court is competent to impose in respect of one offence in exercise of its ordinary jurisdiction.

28. Where an offence over which a Magistrate's Court has jurisdiction is committed or any cause or matter arises in any vessel, such offence may be prosecuted or such cause or matter heard and determined either by the Magistrate's Court exercising jurisdiction over the place where such vessel is at the time when such offence is committed or such cause or matter arises, or by the Magistrate's Court exercising jurisdiction over any place where such vessel calls after such commission or arising.

29.—(1) Where a Magistrate's Court is of the opinion that any person is under the age of sixteen years (hereafter in this section referred to as the young person) and is in need of care, protection or control, the Court may—

(a) make an order committing him to the care of any fit person whether a relative or not who is willing to undertake the care of him, and at the same time or at any subsequent time on the application of the person to whose care the young person has been committed, make an order that the parent or guardian (if any) of the young person make a contribution towards the maintenance of the young person of such sum as the Court, having regard to the means of such parent or guardian, thinks fit; or

Special  
jurisdiction in  
certain cases

Committal of  
persons under  
the age of  
sixteen to care of  
fit person  
4 of 1969, s. 9



(b) order his parent or guardian to enter into a recognisance with or without sureties, in such amount as the Court thinks fit, to exercise proper care and guardianship.

(2) Every order and every recognisance entered into pursuant to the provisions of subsection (1) shall, unless some earlier date of termination is ordered by the Court, remain in force until the young person attains the age of eighteen years.

(3) Any fit person to whose care, protection and control any young person has been committed pursuant to the provisions of this section may at any time apply to the Court for variation or cancellation of the order, and the Court may vary or cancel the order or replace it by such order as may to the Court appear expedient.

(4) Any young person committed to the care of a fit person pursuant to the provisions of this section who absconds therefrom may be arrested by any police officer without warrant and either brought before a Magistrate's Court or summarily returned to the care of such fit person; and in the case of any such young person who is brought before a Magistrate's Court, such Court may order that he be returned to the custody of such fit person or if, having regard to all the circumstances, it appears to such Court advisable so to do, it may order that he be committed to the care of some other fit person.

(5) For the purpose of this section, and without prejudice to the generality of the expression, a person shall be deemed to be in need of "care, protection or control", who, in the opinion of the Court, is not receiving such care, protection or control as a good parent or guardian may be expected to give or is beyond the control of his parent or guardian; and the expression "fit person" includes any local authority, religious institution, welfare association or other organisation able and willing to undertake the care, protection or control of persons under the age of eighteen years.

**30.** Every Magistrate shall have power to issue writs of summons for the commencement of actions in a Magistrate's Court, to administer oaths and take solemn affirmations and declarations, to receive production of books and documents and to make such decrees and orders and issue such process and exercise such judicial and administrative powers in relation to the administration of justice as shall from time to time be prescribed by this or any other Act, or by Rules of Court, or, subject thereto, by any special order of the Chief Justice.

General power of  
Magistrates

Acts of  
Magistrates not  
to be affected by  
error as to venue

**31.**—(1) Subject to the provisions of any other Act, no act done within Solomon Islands by or under the authority of any Magistrate shall be void or impeachable by reason only that such act was done, or that any act, offence or matter in respect of or in relation to which such act was done, occurred or was situated beyond the area of the jurisdiction of the Magistrate's Court exercised by him.

(2) If the defendant in any civil cause or matter, before, but not after, the time when he is required to state his answer in such cause or matter, specially alleges that any of the grounds referred to in the preceding subsection exist, which, but for the provisions of that subsection, would be of force, the Court shall consider the same, and if there is prima facie proof thereof such Court shall report such cause or matter to a Judge and the Judge shall make an order directing where the cause or matter shall be heard and determined, and such order shall not be subject to appeal.

Proceedings by  
or against an  
officer of a  
Magistrate's  
Court

**32.** Subject to the provisions of section 9 any civil proceeding by or against any Magistrate or other officer of a Magistrate's Court for any offence or matter cognisable by a Magistrate's Court may be brought in a Magistrate's Court in any other district.

Administration  
of Oaths

**33.**—(1) Every Magistrate and every justice of the peace is hereby authorised to administer all oaths which may require to be taken before him in exercise of the jurisdiction and powers conferred upon him by this or any other Act.

(2) Any such oath may also be administered by any Clerk of Court or other officer of the Magistrate's Court under the direction and in the presence of a Magistrate.

(3) Every Magistrate shall be a Commissioner for Oaths and shall have and may exercise the powers by law conferred thereon.

Jurisdiction of  
Judges of High  
Court concurrent  
with that of  
Magistrates

**34.** No jurisdiction conferred upon any Magistrate shall in any way restrict or affect the jurisdiction of the Judges of the High Court, but such Judges shall have in all causes and matters, civil and criminal, an original jurisdiction concurrent with the jurisdiction of the several Magistrates.

Reconciliation

**35.**—(1) In criminal cases a Magistrate's Court may promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings for common assault, or for any

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 such Court, and may thereupon order the proceedings to be stayed or terminated.

(2) In civil causes a Magistrate's Court and the officers thereof shall, as far as there is proper opportunity, promote reconciliation among persons subject to its jurisdiction and encourage and facilitate settlement in an amicable way and without recourse to litigation of matters in difference between them.

(3) Where a civil suit or proceeding is pending, a Magistrate's Court and the officers thereof may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof.

**36.** Where the Chief Justice appoints two or more Magistrates to any district, any such Magistrate within such district may, at any stage of the proceedings before final judgment, transfer, within the limits of such district, any cause or matter before him to any other such Magistrate and such cause or matter shall be commenced *de novo*, inquired into, tried and disposed of, by any Magistrate of competent jurisdiction to whom it has been transferred as if it had been instituted before him:

Transfer between Magistrates in the same district

Provided that no cause or matter which has been specifically transferred by the High Court for inquiry or trial by a particular Magistrate shall again be transferred without leave of a Judge.

**37.** A Magistrate's Court may of its own motion, or on the application of any person concerned, report to the High Court the pendency of any cause or matter which in the opinion of the Magistrate exercising jurisdiction in such Magistrate's Court ought to be transferred from it to any other Magistrate's Court or to the High Court. The High Court shall direct in what mode and where the cause or matter shall be heard and determined.

A cause may be reported for transfer

**38.—**(1) The High Court may at any time and at any stage thereof before judgment transfer any civil cause or matter before a Magistrate's Court to any other Magistrate's Court or to the High Court, and such cause may be transferred either entirely or in respect of any part thereof or procedure required to be taken therein.

Transfer of cases by a Judge

(2) The power of transfer shall be exercised by means of an order under the hand of a Judge and the seal of the High Court, and may apply either to any particular cause or causes, matter or

matters in dependence either entirely or in respect of any part thereof or procedure required to be taken therein, or generally to all such causes and matters as may be described in such order, and in the latter case may extend to future causes or matters as well as to such as may at the time of making such order be in dependence.

(3) The High Court may at all times cancel, alter, add to or amend any order under the preceding subsection.

(4) The High Court may, if it appear expedient, in the first instance cause the contents of any such order to be telegraphed, and any such telegram shall, until receipt of the said order have the same validity and effect as if it were the said order.

Effect of an  
order of transfer

**39.**—(1) Every order of transfer shall operate as a stay of proceedings in the Magistrate's Court to which it may be addressed in any cause or matter to which the order extends or is applicable, and the process and proceedings in every such cause or matter, and an attested copy of all entries in the books of such Court relative thereto, shall be transmitted to the Court to which the same shall be transferred and thenceforth all proceedings in the cause or matter shall be taken in such Court as if the cause or matter had been commenced therein.

(2) Any order given under sections 37 or 38 shall not be subject to appeal.

Judgment may  
be entered in  
High Court in a  
judgment of a  
Magistrate's  
Court  
LN 46A of 1978

**40.**—(1) A Judge, if satisfied that a person whether resident in Solomon Islands or not, against whom judgment for an amount exceeding forty dollars has been obtained (whether by way of claim or counterclaim or costs or otherwise) in a Magistrate's Court, has not goods or chattels within Solomon Islands which can be seized conveniently to satisfy the judgment, may, if he thinks fit, and upon such terms as to costs as he may direct, by order under his hand and the seal of the High Court, remove the judgment into the High Court.

(2) Upon the removal of a judgment into the High Court in pursuance of this section no further proceedings shall be had or taken thereon in the Magistrate's Court and the judgment shall be entered in the High Court for the amount due and payable under the judgment of the Magistrate's Court together with the costs as aforesaid, and a judgment so entered shall have the same force and effect and the same proceedings may be had thereon as if it were a judgment originally obtained in the High Court.

(3) This section applies to orders obtained in a Magistrate's Court as it applies to judgments there obtained.

#### PART V

#### APPEALS

41.—(1) Subject to the provisions of this Act, an appeal shall lie to the High Court—

Civil appeals

(a) from all final judgments and decisions of any Magistrate's Court in any suit or matter before it; and

(b) from all interlocutory orders and decisions of any Magistrate's Court made in the course of any suit or matter before it.

(2) Notwithstanding the provisions of the preceding subsection, no appeal shall lie, except by special leave of the Magistrate's Court, or of the High Court, from any order or decision made by consent, *ex parte* or as to costs only.

42. Subject to the provisions of section 44, the High Court shall not entertain any appeal arising from any suit or matter unless the appellant has fulfilled all the conditions of appeal imposed by the Magistrate's Court, or the High Court, or as prescribed by Rules of Court.

Conditions precedent to appeal

43. In addition to, and without prejudice to, the right of appeal conferred by this Act, a Magistrate may reserve for the consideration of the High Court on a case to be stated by him any question of law which may arise on the trial of any suit or matter, and may give any judgment or decision subject to the opinion of the High Court, and the High Court shall have power to determine, with or without hearing argument, every such question.

Power to reserve question of law for the opinion of the High Court

44. Notwithstanding anything hereinbefore contained, the High Court may entertain any appeal from a Magistrate's Court, on any terms which it thinks just.

Discretionary power of High Court to entertain appeals

45. Appeals in criminal causes shall lie to the High Court from any Magistrate's Court in accordance with any other Act for the time being in force relating to criminal procedure and of any Rules of Court made under the provisions of section 90 of the Constitution.

Criminal appeals  
*LN 46A of 1978*

## PART VI

## REVISION OF DECISIONS OF MAGISTRATES

Monthly lists of criminal cases heard to be sent to a Judge  
4 of 1969, s. 10.

**46.** At the end of every month, every Magistrate shall send to the Chief Justice, or to such Judge as the Chief Justice shall from time to time designate for such purpose, either generally or in respect of any particular district, in such form as the Chief Justice shall from time to time direct, a complete list of all criminal cases decided by or brought before such Magistrate during that month, setting out the names, sex, and age of each defendant, the offence with which he was charged, such defendant's plea thereto and, if convicted, the date of the conviction, and the sentence or order in full, and a complete list of all civil cases, setting out the names of the parties and the substance of the claim or remedy sought and of the decision or order.

Power of Judges to revise decisions of Magistrates  
8 of 1965, Sched 4 of 1969, s. 11

**47.—(1)** Upon receipt of the list of criminal cases referred to in the preceding section the Judge receiving the same may, if he thinks fit, call for a copy of the record of any case included therein and, either without seeing such record or after seeing such record, as he may determine, and either without hearing argument or after hearing argument, as he may determine, may—

(a) subject to any enactment specifying any penalty, impose, reduce, enhance or alter the nature of any sentence:

Provided that—

(i) no sentence shall be imposed which the Magistrate's Court could not have imposed; and

(ii) no order shall be made under this paragraph to the prejudice of any person unless he has had an opportunity of being heard either personally or by counsel or solicitor in his defence;

(b) subject to any enactment requiring a particular order to be made, make, set aside or modify an order in such form as he thinks fit; or

(c) set aside the conviction, in which case the person convicted if under detention shall be forthwith set at liberty, or in the case of a fine such fine, if already paid, shall be refunded to the person fined, or if security has been required and given, he shall be freed from such security; or

(d) set aside the conviction and convict the accused person on the evidence of any offence of which he has not

been specifically acquitted and of which he might have been convicted and sentence him accordingly; or

(e) set aside the conviction and substitute a special finding to the effect that the person convicted was guilty of the act or omission charged, but was insane so as not to be responsible for his action at the time when he did the act or made the omission, and order such person to be confined, until Her Majesty's pleasure shall be known, in a mental hospital, prison or other suitable place of custody; or

(f) set aside the conviction and order a new trial or a preliminary enquiry before the Magistrate who made the conviction in question or before any other Magistrate; or

(g) order further evidence to be taken either generally or on some particular point by the Magistrate who passed the sentence or by any other Magistrate, and order in the meantime any person who shall have been convicted and imprisoned to be liberated on bail or on his own recognisance; and

(h) make such other order as justice may require and give all necessary and consequential directions:

Provided always that when a person convicted shall have appealed against such conviction or any sentence imposed in respect thereof, or shall have applied for a case to be stated by the Magistrate under the provisions in that behalf contained in any other Act for the time being in force relating to criminal procedure and of any Rules of Court made under the provisions of section 90 of the Constitution, the Judge shall not exercise the powers conferred by this section.

(2) Upon receipt of the list of civil cases referred to in the preceding section the Judge receiving the same may, if he thinks fit, call for a copy of the record of any case included therein, and, either without seeing such record or after seeing such record, as he may determine, and either without hearing argument or after hearing argument, as he may determine, may alter or set aside the order of the Magistrate's Court, and may vary such order as justice may require and give all necessary and consequential directions.

(3) When action upon a list as prescribed in the preceding subsections of this section is complete or if the Judge shall decide to take no such action, the Judge shall direct that the list be filed; but such direction shall not have the effect of preventing him or

his successor from subsequently taking any action prescribed in that subsection if he shall think fit:

Provided that three months after the last day of the month to which such list relates the Judge shall become *functus officio* in respect of all cases upon the list in respect of which he shall not up till then have taken any action.

(4) Proceedings under this section may be taken by the Judge of his own motion or on the petition of any person interested praying for the exercise of the revisional powers of the High Court and such powers may be exercised notwithstanding that the relevant monthly list shall not have been transmitted to or received by the Judge.

(5) In respect of any monthly list, the Chief Justice shall have and exercise similar powers to those conferred on any Judge or Judges notwithstanding any designation made under section 46.

(6) Nothing in this section contained shall be deemed to authorise the conversion of a finding of acquittal into one of conviction.

Reports by  
Magistrates to  
Judges

48. Any Judge may, whenever he shall so think fit to do, require any Magistrate to render to him, in such form as he shall direct, a report of any case civil or criminal which may be brought before him and such report shall be rendered accordingly.

## PART VII

### SITTINGS OF THE COURT

Place and time  
for sittings of  
Magistrates'  
Courts

49.—(1) Magistrates' Courts shall ordinarily be held at such places as the Chief Justice may direct, but should necessity arise they may also be held at any other places within the limits of their jurisdiction. In the absence of any such directions Magistrates' Courts shall continue to be held at such places as existing courts of like character have been held.

(2) Subject to the directions, if any, of the Chief Justice, each Magistrate's Court shall be held at such time as the Magistrate exercising the jurisdiction of such Court shall deem most expedient for the despatch of the business thereof.

Districts  
6 of 1979, s. 5

50. The Chief Justice may from time to time by orders provide for the formation of districts and may in like manner revoke, alter, or amend any of such orders.



**51.** At any sitting of any Magistrate's Court both civil and criminal causes and matters may be heard, determined, and dealt with, or either one or the other.

Nature of  
business at any  
sitting

**52.—(1)** Any Magistrate exercising the jurisdiction of a Magistrate's Court may adjourn such Court from day to day or to any convenient day.

Adjournments

(2) If a Magistrate is not present at the time and place appointed for any sitting of a Magistrate's Court, any officer of such Court or other person authorised in that behalf by the Magistrate, may, by public notice, written or oral, adjourn the sitting until such time and to such place as may have been communicated to him by the Magistrate, and, in the absence of any such communication, to such time and place as may be convenient; 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.

**53.** When any day appointed for the sitting or any adjourned sitting of a Magistrate's Court falls on a Sunday or a Public Holiday, the sitting shall not take place on such day, and the Magistrate shall in such case, if practicable, attend and transact the business appointed to be heard at such sitting as aforesaid on the day (not being a Sunday or Public Holiday) next after the day appointed for such sitting.

Adjournment  
over Sunday or  
Public Holiday

## PART VIII

### PRACTICE AND PROCEDURE OF THE COURTS

**54.** Subject to the provisions of any other law for the time being in force, the jurisdiction vested in Magistrates' Courts shall be exercised (so far as regards practice and procedure) in the manner provided by this Act or by any other Act for the time being in force relating to criminal or civil procedure, or by Rules of Court, and in default thereof, in substantial conformity with the law and practice for the time being observed in England in county courts, police courts and courts of summary jurisdiction.

Practice and  
procedure

**55.** Where a Magistrate has issued any summons or warrant or otherwise taken or commenced any proceeding or matter whether civil or criminal, under any authority however conferred, and subsequently ceases to act as such Magistrate, it shall be lawful for the person in whose hands such summons or warrant may be to execute or serve the same in the same manner

Completion by  
Magistrate of  
process begun by  
his predecessor

as if the Magistrate who issued the summons or warrant had not ceased to act as such Magistrate and any successor of such Magistrate, or any person acting for such Magistrate, may hear, determine, execute, enforce, and carry to completion any proceeding or matter so commenced as aforesaid save that, except where otherwise provided by any other Act for the time being in force relating to criminal or civil procedure, such Magistrate shall commence the trial of any such cause or matter *ab initio*.

Process of  
Magistrate valid  
throughout  
Solomon Islands  
LN 46A of 1978

**56.** Subject to the provisions of any other Act for the time being in force relating to criminal or civil procedure, all summonses, warrants, orders, judgments, writs of execution, or other process or proceedings, whether civil or criminal, issued or taken by or by the authority of any Magistrate respecting any cause or matter within his jurisdiction shall have force and effect, and may be served or executed anywhere within Solomon Islands by the Sheriff, Bailiff or by the member of the Police Force to whom the same are directed or by any other member of the Police Force.

Issue of process

**57.** All summonses, warrants, orders, convictions and recognisances, and all other process, whether civil or criminal, shall be issued or made under the hand of a Magistrate or, where so authorised by or under this or any other Act, under the hand of a justice of the peace:

Provided that where expressly authorised by Rules of Court, writs of summons and other civil process may be issued under the hand of a Clerk of the Court.

Duty of Police to  
obey Magistrates

**58.** All members of the Police Force are hereby authorised and required to obey the warrants, orders and directions of a Magistrate in the exercise of his criminal jurisdiction, and, in so far as such obedience may be authorised and required by any Act in that behalf, of his civil jurisdiction.

Language of the  
Magistrates'  
Courts and  
interpretation

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**59.—**(1) The language of the Magistrates' Courts shall be English.

(2) In any proceedings in any Magistrate's Court in which the language spoken by any witness or party requires to be interpreted into English, the Magistrate having jurisdiction in the proceedings may appoint suitable persons as interpreters.

## PART IX

## EVIDENCE

**60.**—(1) In any cause or matter, and at any stage thereof, a Magistrate may, either of his own motion or on the application of any party, summon any person within Solomon Islands to attend to give evidence, or to produce any document in his possession or power, and may examine such person as a witness, and require him to produce any document in his possession or power subject to just exceptions.

Summoning  
witnesses  
*LN 46A of 1978*

(2) Subject to the provisions of any other Act for the time being in force relating to criminal procedure, in a criminal case a Magistrate, in addition to the powers conferred by subsection (1), if satisfied by evidence on oath that any person can give material evidence and will not attend unless compelled to do so, may forthwith issue a warrant for the arrest and production of such witness before a Magistrate's Court at a time and place to be therein stated.

(3) When any witness is arrested under a warrant issued under the provisions of subsection (2), a Magistrate may, upon the witness furnishing security for his appearance at the hearing of the case, with or without a surety or sureties, to the satisfaction of the Magistrate, order him to be released from custody, or shall, on his failing to furnish such security, order him to be detained until the date of the hearing at which he is required to give evidence.

**61.** If any person summoned as provided in section 60, having reasonable notice of the time and place at which he is required to attend, after tender of his reasonable travelling expenses to and from the Magistrate's Court, fails to attend accordingly, and does not excuse such failure to the satisfaction of the Court, he shall, independently of any other liability, be guilty of a contempt of court, and may be proceeded against by warrant to compel his attendance.

Penalty for non-  
attendance of  
persons  
summoned

**62.** If, in any civil suit or matter, any person, whether appearing in obedience to a summons or brought up under warrant, being required to give evidence, refuses to take an oath, or to answer any question lawfully put to him, or to produce any document in his possession or power, and does not excuse his refusal to the satisfaction of the court, he shall, independently of any other liability, be guilty of a contempt of court.

Refusal to be  
sworn or to give  
evidence

Bystander may be required to give evidence

**63.** Any person present in court, whether a party or not in a cause or matter, may be compelled by any Magistrate's Court to give evidence, or produce any document in his possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.

Prisoners may be brought up in order to give evidence

**64.** A Magistrate may issue an order under his hand to bring up any person confined as a prisoner under any sentence or otherwise to be examined as a witness in any suit or matter depending in any Magistrate's Court, and the gaoler, or person in whose custody such prisoner shall be, shall obey such order and shall provide for the safe custody of the prisoner during his absence from prison for the purpose aforesaid.

Allowances to witnesses

**65.** Subject to the provisions of this or any other Act and to any Rules of Court for the time being in force, a Magistrate may, in civil or criminal proceedings, order and allow to all persons required to attend or be examined as witnesses, such sum or sums of money as shall seem fit, as well for defraying the reasonable expenses of such witnesses as for allowing them a reasonable compensation for their trouble and loss of time, but it shall not be lawful, in any criminal proceeding, for any person to refuse to attend as a witness or to give evidence, when so required by process of the Court, on the ground that his expenses have not been first paid or provided for.

How allowances defrayed  
*LN 46A of 1978*

**66.** All sums of money allowed under the provisions of the preceding section shall be paid in civil proceedings by the party on whose behalf the witness is called, and shall be recoverable as ordinary costs of the suit, if the Magistrate shall so order, and, in criminal proceedings, they shall, where not ordered to be paid by the party convicted or prosecuted, be paid out of the Consolidated Fund.

Inspection

**67.** In any cause or matter, a Magistrate may make such order for inspection by the Court, parties or witnesses of any real or personal property, the inspection of which may be material to the determination of the matter in dispute, and may give such directions with regard to such inspection as to the Court may seem fit.

No person entitled to inspection of the record of evidence

**68.** No person shall be entitled, as of right, at any time or for any purpose, to inspection of the record of evidence given in any case before any Magistrate's Court, or to a copy of the notes of

such Court, save as may be expressly provided by any Rules of Court, or, in the absence of any such Rules, unless the leave of a Magistrate to make such inspection or receive such copy, has been first had and obtained.

69.—(1) Subject to the provisions of any other Act, in every case heard before a Magistrate's Court, and at every stage thereof, the Magistrate hearing such case shall, save as hereinafter provided, take down in writing the oral evidence given before the Court or so much thereof as he deems material:

Recording evidence before a Magistrate's Court

Provided that, should such Magistrate, in any case, find himself temporarily incapacitated from taking down such evidence, he may direct that such evidence shall be taken down by the Clerk of the Court or other officer performing the duties of such Clerk of the Court.

(2) Such Clerk of the Court or other officer referred to in the preceding subsection shall take down in writing the oral evidence in manner as aforesaid, under the supervision and control of the Magistrate presiding, who may, at any time before appending his signature to such writing, amend anything therein which he may consider requires amendment; and, before so appending his signature, such Magistrate shall peruse and examine such writing, and satisfy himself that it is, in substance, an accurate and faithful record of the oral evidence given.

#### PART X

#### PROTECTION OF MAGISTRATES, JUSTICES OF THE PEACE AND OFFICERS OF THE MAGISTRATE'S COURT

70. No Magistrate, justice of the peace or other person acting judicially, shall be liable to be sued in any civil court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction provided that he, at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of; and no officer of any Court or other person bound to execute the lawful warrants or orders of any such Magistrate, justice of the peace or other person acting judicially, shall be liable to be sued in any civil court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.

Protection of Magistrates, justices of the peace and other officers

## PART XI

## MISCELLANEOUS

Representation of Crown, public officers in their official capacity and departments of the Government

**71.** In any suit or matter in which the Crown or any public officer in his official capacity or any department of the Government is a party or in any suit or matter affecting the revenues of Solomon Islands, the Crown, or that officer or department, may be represented by a law officer, crown counsel, legal practitioner or other person duly authorised in that behalf by the Attorney-General or by the public officer or the officer in charge of the department concerned.

Employment of legal practitioners

**72.** The employment of legal practitioners shall, save as may be otherwise specifically provided, be allowed in causes and matters, whether civil or criminal, before any Magistrate's Court.

Fees and costs

**73.** The fees and costs set forth in the Rules of Court made under this Act or any other Act for the time being in force relating to criminal or civil procedure may be demanded and received by the Clerks of Court or other persons appointed to receive such fees and costs for and in respect of the several matters therein mentioned:

Provided that in the absence of the Clerk of the Court from any Magistrate's Court or in the event of there being no such Clerk or other person appointed to receive such fees and costs in any such Court, the Magistrate exercising the jurisdiction thereof may demand and receive such fees and costs.

By whom fees and costs payable

**74.** All fees and costs payable under or by virtue of this Act shall in the first instance be paid by the party applying for the summons, warrant, or other process or document in respect whereof the same are payable:

Provided that no fees shall be payable by any public officer or public department in any case instituted by any public officer when acting in his official capacity or in any case in which the Magistrate endorses on the plaint, information or complaint, as the case may be that it is a fit one for remission of fees on account of the poverty of the party or for any other sufficient reason; and in every such case such fees and costs shall, in the discretion of the Magistrate, be recoverable from the other party, if the decision be given against him.

75. Sections 73 and 74 shall apply to all moneys received by a Clerk of Court or other person appointed to receive fees and costs in any Magistrate's Court under the provisions of this or any other Act, whether the same be fees, costs, fines, forfeitures, penalties or money paid into court for any purpose, or received or recovered under or by virtue of any process of execution or distress.

All fees and moneys received in Magistrates' Courts to be subject to foregoing provisions

76. The Chief Justice may make Rules of Court under this Act for all or any of the following purposes —

Rules of Court

(a) for regulating the practice and procedure of Magistrates' Courts in matters not specifically provided for in this or any other Act;

(b) for regulating the forms to be used and all matters connected therewith;

(c) for regulating the receipt of moneys paid into a Magistrate's Court, or received or recovered under or by virtue of any process of execution or distress;

(d) for regulating the payment of moneys out of a Magistrate's Court to persons entitled thereto;

(e) for prescribing the books and forms of account to be kept or used in Magistrates' Courts;

(f) for prescribing fees, costs and amounts for service of process which may be demanded and received by Clerks of Court and others in connection with the practice and procedure of the Magistrates' Courts;

(g) for prescribing for the acceptance, retention and disposal of fees and costs;

(h) for fixing tables of fees and costs recoverable by legal practitioners for their services on taxation and providing for the taxation of the same;

(i) for the better carrying into effect of the provisions and objects and intentions of this Act.

77.—(1) Nothing in this Act contained shall affect the jurisdiction of any court established under the Local Courts Act.

Saving  
LN 46A of 1978  
Cap. 19

(2) Nothing in this Act contained shall deprive any Magistrate's Court of the right to observe and enforce the observance, or shall deprive any person of the benefit, of any law or custom of Islanders, such law or custom not being repugnant to natural justice, equity, and good conscience, nor incompatible either directly or by necessary implication with any Act or other law for the time being in force in Solomon Islands.

## CHAPTER 20

## MAGISTRATES' COURTS

*Subsidiary Legislation*LN 26/1962  
LN 87/1977DIRECTIONS BY THE CHIEF JUSTICE  
(Section 3 (2).)

[5th May 1962]

The Chief Justice has directed that there shall be a Magistrate's Court in each of the following Districts—

Central District.  
Malaita District.  
Western District.  
Eastern District.  
Eastern Outer Islands District

INCREASE OF JURISDICTION ORDERS  
(Section 27 (3))

LN 68/1963

THE MAGISTRATES' COURTS (INCREASE OF JURISDICTION)  
(1963) ORDER

[2nd September 1963]

Title

1. This Order may be cited as the Magistrates' Courts (Increase of Jurisdiction) (1963) Order.

Criminal  
jurisdiction  
increased  
LN 18/1964

2. Subject to the provisions of section 27(3) of the Magistrates' Courts Act, all Magistrates' Courts within Solomon Islands shall have jurisdiction to try any offence coming within the provisions of sections 55, 75, 83, 85, 86, 88, 89, 95, 106, 114, 115, 116, 117, 118, 119, 123, 132, 140, 141, 142(2), 144, 145, 153, 154, 185, 186, 188, 233, 237, 240, 245, 247, 254, 256, 261, 264, 265, 272 (b), 274, 275, 279, 280, 281, 282, 287, 289, 302, 308, 310, 311, 312, 313, 314, 315 (2), 325, 326(1), 329, 330, 355, 372, 374 and 379 of the Penal Code, and within section 5(2) of the Firearms and Ammunition Act.

Cap. 26

Cap. 80



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THE MAGISTRATES' COURTS (INCREASE OF JURISDICTION)  
(1971) ORDER

LN 69/1971

[8th October 1971]

1. This Order may be cited as the Magistrates' Courts (Increase of Jurisdiction) (1971) Order.

Citation

2. Subject to the provisions of subsection (3) of section 27 of the Magistrates' Courts Act, all Magistrates' Courts within Solomon Islands shall have jurisdiction to hear and determine any offence to which the provisions of sections 273 and 278 of the Penal Code relate in respect of which the value of any property stolen, embezzled, converted or otherwise misapplied or misappropriated does not exceed an aggregate of two hundred dollars.

Increase of  
criminal  
jurisdiction

Cap. 26

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THE MAGISTRATES' COURTS (INCREASE OF JURISDICTION)  
(1974) ORDER

LN 24/1974

[3rd May 1974]

1. This Order may be cited as the Magistrates' Courts (Increase of Jurisdiction) (1974) Order.

Citation

2. Subject to the provisions of subsection (3) of section 27 of the Magistrates' Courts Act, all Magistrates' Courts within Solomon Islands shall have jurisdiction to hear and determine any offence to which the provisions of paragraph (a) of subsection (1) of section 143 of the Penal Code apply.

Increase of  
criminal  
jurisdiction

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THE MAGISTRATES' COURTS (INCREASE OF JURISDICTION)  
(1975) ORDER

LN 11/1975

[4th April 1975]

1. This Order may be cited as the Magistrates' Courts (Increase of Jurisdiction) (1975) Order.

Citation

2. Subject to the provisions of subsection (3) of section 27 of the Magistrates' Courts Act, all Magistrates' Courts within Solomon Islands shall have jurisdiction to hear and determine any offence to which the provisions of section 271 of the Penal

Increase of  
criminal  
jurisdiction

Code relate in respect of which the value of any goods or other things stolen does not exceed an aggregate of two hundred dollars.

LN 103/1977

THE MAGISTRATES' COURTS (INCREASE IN CRIMINAL JURISDICTION) (1977) ORDER

[21st October 1977]

1. This Order may be cited as the Magistrates' Courts (Increase in Criminal Jurisdiction) (1977) Order.

2. Subject to the provisions of section 27(3) of the Magistrates' Courts Act, a Principal Magistrate's Court shall have jurisdiction to try any offence coming within the provisions of sections 224, 293, 299 and 319 of the Penal Code. (Cap 26)

LN 172/1990

THE MAGISTRATES' COURTS (INCREASE OF JURISDICTION) (1990) ORDER

[7th December 1990]

1. This Order may be cited as the Magistrates' Courts (Increase of Jurisdiction) (1990) Order.

2. Subject to the provisions of subsections (2) and (3) of section 27 of the Magistrates Courts Act, all Magistrates' Courts of the First Class within Solomon Islands shall have jurisdiction to hear and determine any of the offences set out in the Schedule hereto.

SCHEDULE

Cap. 26

1. Any offence under section 84 of the Penal Code.
2. Any offence under sections 269, 270, 271 and 273 of the Penal Code where the value of the property stolen or embezzled does not exceed \$1000, and any attempt to commit such an offence under section 380 of the Penal Code.
3. Any offence under section 278 of the Penal Code where the value of the property converted does not exceed \$1000.
4. Any offence under the Traffic Act apart from offences under section 38, 39 or 43.
5. Any offence under the Liquor Act.
6. Any offence under section 40 of the National Provident Fund Act.
7. Any offence under sections 9(2), 22, 26(2) or 30(3) of the Firearms and Ammunition Act.

Cap. 131

Cap. 144

Cap. 109

Cap. 80

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THE MAGISTRATES' COURTS (INCREASE OF JURISDICTION)  
(1991) ORDER

LN 17/1991

[1st February 1991]

1. This Order may be cited as the Magistrates' Courts (Increase of Jurisdiction) (1991) Order.

2. Subject to the provisions of subsections (1) and (3) of section 27 of the Magistrates' Courts Act, all Principal Magistrates' Courts within Solomon Islands shall have jurisdiction to hear and determine any of the offences set out in the First Schedule hereto.

3. Subject to the provisions of subsections (2) and (3) of section 27 of the Magistrates' Courts Act, all Magistrates' Courts of the First Class within Solomon Islands shall have jurisdiction to hear and determine any of the offences set out in the Second Schedule hereto.

FIRST SCHEDULE

Any offence under section 4 of the Firearms and Ammunition Act.

Cap. 80

SECOND SCHEDULE

Any offence under sections 6(8), 12, 13, 14, 20, 23, 25(2), 28, 40, 41, 42 or 45 of the Firearms and Ammunitions Act.

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THE MAGISTRATES' COURTS (INCREASE OF JURISDICTION)  
(1993) ORDER

LN 77/1993

[16th April 1993]

1. This Order may be cited as the Magistrates' Courts (Increase of Jurisdiction) (1993) Order.

2. Subject to the provisions of subsections (2) and (3) of section 27 of the Magistrates' Courts Act, all Magistrates' Courts of the First Class within Solomon Islands shall have jurisdiction to hear and determine any of the offences set out in the Schedule hereto.

SCHEDULE

Any offence under sections 83, 247, 295, 325 and 326(1) of the Penal Code (Cap 26) and Sections 43(1)(b) and 43(2)(b) of the Traffic Act (Cap 131).

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LN 34/1962  
LN 90/1977

THE MAGISTRATES' COURTS (DISTRICTS) ORDER  
(Section 50)

[5th May 1962]

Title                   **1.** This Order may be cited as the Magistrates' Courts (Districts) Order.

Constitution of  
magisterial  
districts

**2.** For the purposes of the Magistrates' Courts Act, Solomon Islands shall be divided into the following districts —  
Central District.  
Eastern District.  
Malaita District.  
Western District.  
Eastern Outer Islands District

LN 21/1992

THE MAGISTRATES' COURTS (FORMS) RULES  
(Section 76)

[14th February 1992]

Title                   **1.** These Rules may be cited as the Magistrates' Courts (Forms) Rules.

Forms to be used

**2.** The forms set out in the Schedule hereto shall be used in Magistrates' Courts in the exercise of their criminal jurisdiction with such adaptation as the circumstances of each case may require.

SCHEDULE

*Prescribed Forms*

<i>Form No.:</i>	<i>Particulars:</i>	<i>Criminal Procedure Code Section:</i>
1.	General Title	—
2.	Recognisance (Without Sureties)	40 & 107
3.	Recognisance (With Sureties)	40 & 107
4.	Complaint	76
5.	Charge (Private Complaint)	76
6.	Charge (Complaint by Public Officer)	76
7.	Warrant to Apprehend Defendant in the First Instance	77
8.	Summons to Defendant	79

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9.	Summons to Defendant	78
10.	Affidavit of Service of Summons	85 & 86
11.	Summons to Defendant	86
12.	Summons to Show Cause	78 & 86
13.	Warrant to Apprehend Defendant Where Summons is Disobeyed	89
14.	Information to Ground Search Warrant	101
15.	Search Warrant	101
16.	Summons to Witness	127
17.	Warrant Where a Witness has not Obeyed a Summons	128
18.	Warrant for a Witness in the First Instance	129
19.	Commitment of Refractory Witness	135
20.	Warrant to Remand Defendant When Arrested	95
21.	Warrant of Commitment for Safe Conduct on Adjournment of Hearing	191
22.	Warrant to Arrest Accused who has not Appeared after Adjournment	192
23.	Notice of Conviction or Order	204
24.	Deposition at Preliminary Inquiry and Trial	212
25.	Statement of Accused	215
26.	Warrant of Commitment in Custody for Trial	219
27.	Order Committing Corporation for Trial	219
28.	Commitment of Witness for Refusing to Enter into Recognizance to give Evidence	222
29.	Witness Bound Over or Treated as having been Bound Over Conditionally	224
30.	Notice Requiring Attendance of Witness Bound Over or Treated as Bound Over Conditionally	224
31.	Summons to an Assessor	245
32.	Summons to Interpreter	184 & 250
	<i>Penal Code Section:</i>	
33.	Warrant of Commitment on a Conviction Where the Punishment is by Imprisonment	24
34.	Warrant of Commitment on a Conviction and in Default of Payment	29
35.	Warrant of Distress upon a Conviction and in Default of Payment	28

36.	Warrant of Commitment for Want of Distress upon a Conviction for a Fine	30
37.	Warrant of Distress for Costs upon an Order of Dismissal of a Charge	28
38.	Warrant of Commitment for Want of Distress upon an Order for Dismissal of a Charge	30
39.	Order as to Residence	175 & 176 & 303 <i>Criminal Procedure Code Section:</i>
40.	Special Procedure in Minor Cases (Form of Record)	209 <i>Probation of Offenders Act Section:</i>
41.	Probation Order	4
42.	Order Amending Probation Order	5
43.	Order Discharging Probation Order	5 <i>Penal Code Section:</i>
44.	Order for Conditional Discharge	35
45.	Commitment on Failure to Comply with Requirement of Probation Order or Probation Order or Conditional Discharge	35 and <i>Probation of Offenders Act Section:</i> 7
46.	Order for Committal of Person Under the Age of 16 Years to Care of Fit Person	36 and <i>Juvenile Offenders Act Section:</i> 16
47.	Recognisance to Appear and Receive Sentence	33
48.	Order for Suspended Sentence of Imprisonment	44(1)(a)
49.	Warrant of Commitment upon an Order for a Partially Suspended Sentence of Imprisonment	44(1)(b)
50.	Warrant of Commitment for Sentence of Imprisonment Where a Suspended Sentence is Put into Effect	45
51.	Order Substituting a New Period of Suspension of a Sentence of Imprisonment	45(1)(c)
52.	Order for Suspended Sentence Supervision	46

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(Form 1 — Magistrates' Courts Act)

**GENERAL TITLE****SOLOMON ISLANDS****IN THE****MAGISTRATE'S COURT**

Criminal Case No: CRC                    /                    /                    MC

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(Form 2-Magistrates' Courts Act)

**RECOGNISANCE (Without Sureties)**  
(Criminal Procedure Code Ss.40 and 107)

**[GENERAL TITLE]**

I, the undersigned, acknowledge myself to owe to our Sovereign Queen Elizabeth II the sum written opposite my signature hereto, to be raised by seizure and sale of my goods if the conditions hereon are not fulfilled.

Dated this                    day of                    19                    .

Name	Address	Signature	Sum
------	---------	-----------	-----

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The conditions of the above recognisance are as follows:—

- (a) If the abovenamed                    appears before this Court on the                    day of                    19                    at                    o'clock to answer a charge contrary to                    then the said recognisance shall be void, and otherwise it shall be in force.
- (b) If the abovenamed                    keeps the public peace and is of good behaviour towards all persons (and especially towards                    ) during                    then the said recognisance shall be void, and otherwise it shall be in force.
- (c) If the abovenamed                    appears before this Court on the                    day of                    19                    at                    o'clock and then and there prosecutes (and/or gives evidence on) a charge contrary to                    then the said recognisance shall be void, and otherwise it shall be in force.
-

(Form 3 — Magistrates' Courts Act)

**RECOGNISANCE (With Sureties)**  
(Criminal Procedure Code Ss. 40 and 107)**[GENERAL TITLE]**

We, the undersigned, severally acknowledge ourselves to owe to our Sovereign Queen Elizabeth II the sums set opposite our respective signatures hereto, to be raised by seizure and sale of the goods belonging to each of us if the conditions hereon endorsed are not fulfilled.

Dated this                      day of                      19                      .

Name	Address	Signature	Sum
------	---------	-----------	-----

The conditions of the above recognisance are as follows:

- (a) If the abovenamed    appears before this Court on the                      day of                      19                      at                      o'clock to answer a charge contrary to                      then the said recognisance shall be void, and otherwise it shall be in force.
- (b) If the abovenamed    keeps the public peace and is of good behaviour towards all persons (and especially towards                      ) during                      then the said recognisance shall be void, and otherwise it shall be in force.
- (c) If the abovenamed    appears before this Court on the                      day of                      19                      at                      o'clock and then and there prosecutes (and/or gives evidence on) a charge contrary to                      then the said recognisance shall be void, and otherwise it shall be in force.



---

(Form 4 — Magistrates' Courts Act)

**COMPLAINT**

(Criminal Procedure Code S. 76)

**[GENERAL TITLE]**

of  
 makes complaint to the undersigned Magistrate that  
 of did on the day  
 of 19 , at in Solomon Islands commit  
 the following offence:

**Statement of Offence****Particulars of Offence**

Taken [and sworn (or affirmed)] this day of 19 .  
 Magistrate

---

(Form 5 — Magistrates' Courts Act)

**CHARGE**

(Criminal Procedure Code S. 76)

**(PRIVATE COMPLAINT)****[GENERAL TITLE]**

of  
 is charged on the complaint of  
 with the following offence:

**Statement of Offence****Particulars of Offence**

Dated this day of 19 .

Magistrate

*Note:* This form is for use for charge on private complaint only. If a second sheet is necessary the signature will appear at the bottom of the second sheet only.

---

(Form 6 — Magistrates' Courts Act)

**CHARGE**

(Criminal Procedure Code S. 76)

**(COMPLAINT BY PUBLIC OFFICER)**

**[GENERAL TITLE]**

of  
is charged with the following offence:

**Statement of Offence**

**Particulars of Offence**

Taken before me )  
this            day of )  
19            .        )

**Magistrate**

*Note:* If a second sheet is necessary the signature will appear at the bottom of the second sheet only.

\_\_\_\_\_

---

(Form 7 — Magistrates' Courts Act)

**WARRANT TO APPREHEND DEFENDANT IN THE FIRST INSTANCE**  
(Criminal Procedure Code S. 77)

**[GENERAL TITLE]**

To all Police Officers within Solomon Islands.

**THESE ARE TO COMMAND YOU** in Her Majesty's name to arrest and bring before me at the Magistrate's Court at the defendant

of  
to be dealt with according to law on the following charge(s) made on the sworn complaint of                      of

**Statement of Offence**

**Particulars of Offence**

Dated this                      day of                      19                      .

**Magistrate**

*See reverse form*

**ENDORSEMENT WHERE BAIL IS ALLOWED**  
(Criminal Procedure Code S. 90)

It is directed that the defendant on arrest be released on bail on his/her entering into a recognisance in the sum of \$ \_\_\_\_\_, with \_\_\_\_\_ surety/sureties in the sum of \$ \_\_\_\_\_ [each], for his/her appearance before the Magistrate's Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ am/pm.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Magistrate

\_\_\_\_\_  
(Form 8 — Magistrates' Courts Act)

**SUMMONS TO DEFENDANT**  
(Criminal Procedure Code S. 79)

[GENERAL TITLE]

TO:

of

**THESE ARE TO COMMAND YOU TO APPEAR** at \_\_\_\_\_ o'clock on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at the Magistrate's Court at \_\_\_\_\_ there to answer the charge(s) set out hereunder and be dealt with according to law.

**Statement of Offence**

**Particulars of Offence**

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Magistrate/Clerk of the Court

*See reverse form*

---

This is the exhibit marked "A"  
referred to in the affidavit  
of

Sworn before me this            day of            19 .

**Magistrate/Commissioner for Oaths**

Served by me  
on the within-named  
on the            day of            19            at            o'clock in the noon  
at

---

(Form 9 — Magistrates' Courts Act)

**SUMMONS TO DEFENDANT**  
(Criminal Procedure Code S. 78)**[GENERAL TITLE]****TO:**

of

**YOU ARE HEREBY REQUIRED TO APPEAR** at \_\_\_\_\_ o'clock on the  
(a) \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at the Magistrate's Court at  
there to answer the charge(s) set out hereunder and be dealt with according to  
law.

**PROVIDED THAT** if you wish your personal attendance to be excused and  
the case disposed of in your absence you should complete and sign the  
certificate to that effect overleaf.

**Statement of Offence (b)****Particulars of Offence (c)**

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

**Police Officer**

- (a) Insert date of hearing (not being less than ten days from the date of service of this Notice).
- (b) Insert offence naming Act and section contravened
- (c) Insert brief particulars of offence in ordinary language

*See reverse form*

**CERTIFICATE OF CONSENT**

I hereby certify that:

- (i) I do not wish to appear in person and that I consent to trial in my absence; and
- (ii) I plead\* to the charge(s).

Dated this            day of            19    .

**Signature of Defendant**

\* State whether guilty or not guilty

*You may if you wish attach a written explanation or plea in mitigation.*

This is the exhibit marked "A"  
referred to in the affidavit  
of

Sworn before me this            day of            19    .

**Magistrate/Commissioner for Oaths**

Served by me  
on the within-named  
on the            day of            19    , at            o'clock in the            noon  
at

(Form 10 — Magistrates' Courts Act)

**AFFIDAVIT OF SERVICE OF SUMMONS**  
(Criminal Procedure Code Ss. 85 and 86)

[GENERAL TITLE]

REGINA

v.

I [name, address and occupation of deponent]

make oath and say as follows:—

1. I did on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at [state  
where] \_\_\_\_\_ in the \_\_\_\_\_ Province of  
Solomon Islands personally serve  
with a true copy of the summons marked "A" which appeared to me  
to have been regularly issued out of the Office of the Magistrate's  
Court for the \_\_\_\_\_ District; a true duplicate of which  
summons is now produced and shown to me marked "A".
2. At the time of the said service I did endorse on the said duplicate  
summons, the day of the month and the week of the said service on the  
said \_\_\_\_\_

Sworn at \_\_\_\_\_ )  
 this \_\_\_\_\_ day of \_\_\_\_\_ )  
 19 \_\_\_\_\_ ) Deponent

Before me:—

Magistrate/Commissioner for Oaths



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(Form 11 — Magistrates' Courts Act)

**SUMMONS TO DEFENDANT**  
(Criminal Procedure Code S. 86)

[GENERAL TITLE]

**TO:**

of

**YOU ARE HEREBY COMMANDED TO APPEAR** at \_\_\_\_\_ o'clock on  
the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at the Magistrate's Court  
at \_\_\_\_\_ there to answer the charge(s) set out hereunder and be  
dealt with according to law.

If you wish to admit the charge and your personal attendance to be excused and  
the case disposed of in your absence you should sign the certificate to that  
effect overleaf.

**Statement of Offence**

**Particulars of Offence**

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

**Magistrate/Clerk of the Court**

*See reverse form*

*CERTIFICATE OF CONSENT*

I hereby certify that:

- (i) I do not wish to appear in person and that I consent to trial in my absence; and
- (ii) I plead guilty to the charge(s).

Dated this                    day of                    19                    .

**Signature of Defendant**

*You may if you wish attach a written explanation or plea in mitigation*

This is the exhibit marked "A"  
 referred to in the affidavit  
 of  
 Sworn before me this                    day of                    19                    .

**Magistrate/Commissioner for Oaths**

Served by me  
 on the within-named  
 on the                    day of                    19                    , at                    o'clock in the                    noon at

\_\_\_\_\_

(Form 12 — Magistrates' Courts Act)

**SUMMONS TO SHOW CAUSE**  
(Criminal Procedure Code Ss. 78 and 86)

**[GENERAL TITLE]**

**WHEREAS** on the                      day of                      19  
you                                      were charged with the offence hereunder  
set out

**Statement of Offence**

**Particulars of Offence**

And whereas your personal attendance was dispensed with under section 86 of the Criminal Procedure Code:

And whereas you were on the day aforesaid convicted of the said offence and ordered to pay a fine of                      within the period of                      days from the date hereof:

**And whereas the said fine has not been paid within the prescribed period:**

**NOW THEREFORE YOU THE SAID                      ARE**  
**HEREBY COMMANDED TO APPEAR** before the Magistrate's Court  
at                      on the                      day of                      19                      , at  
                    o'clock to show cause why you should not be committed to prison for  
such term as may then be prescribed.

Dated this                      day of                      19                      .

**Magistrate/Clerk of the Court**

*See reverse form*

This is the exhibit marked "A"  
referred to in the affidavit  
of

Sworn before me this            day of            19    .

Magistrate/Commissioner for Oaths

Served by me  
on the within-named  
on the            day of            19    at            o'clock in the            noon at

\_\_\_\_\_

---

(Form 13 — Magistrates' Courts Act)

**WARRANT TO APPREHEND DEFENDANT  
WHERE SUMMONS IS DISOBEYED**  
(Criminal Procedure Code S. 89)

[GENERAL TITLE]

REGINA

v.

To all Police Officers within Solomon Islands

WHEREAS on the                    day of                    19                    ,  
of                    (hereinafter called the defendant) was  
summoned to appear before the Magistrate's Court at                    on the  
day of                    19                    , at                    o'clock to answer the following charge(s):

**Statement of Offence**

**Particulars of Offence**

And whereas an oath has been made that the defendant was duly served with the summons but did not appear:

**THESE ARE TO COMMAND YOU** in Her Majesty's name to arrest the defendant and bring him before me at the Magistrate's Court at to answer the said charge(s) and be dealt with according to law.

Dated this                    day of                    19                    .

**Magistrate/Clerk of the Court**

*See reverse form*

**ENDORSEMENT WHERE BAIL IS ALLOWED**  
(Criminal Procedure Code S. 90)

It is directed that the defendant on arrest be released on bail on his/her entering into a recognisance in the sum of \$ \_\_\_\_\_, with \_\_\_\_\_ surety/sureties in the sum of \$ \_\_\_\_\_ [each], for his/her appearance before the Magistrate's Court at \_\_\_\_\_ on the

\_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, at \_\_\_\_\_ am/pm.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Magistrate

\_\_\_\_\_  
(Form 14-Magistrates' Courts Act)

**INFORMATION TO GROUND SEARCH WARRANT**  
(Criminal Procedure Code S. 101)

**[GENERAL TITLE]**

\_\_\_\_\_ of \_\_\_\_\_  
on his oath complains that on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, the following goods of the value of \$ \_\_\_\_\_ namely:

\_\_\_\_\_ were unlawfully carried away from \_\_\_\_\_  
by some person or person unknown, and that he has reasonable cause to suspect, and does suspect, that those goods, or some of them, are concealed at \_\_\_\_\_ occupied  
by \_\_\_\_\_ of \_\_\_\_\_; for he the  
said \_\_\_\_\_ says that:

Sworn \_\_\_\_\_ )  
this \_\_\_\_\_ day of \_\_\_\_\_ )  
19 \_\_\_\_\_ )

Before me:

Magistrate  
\_\_\_\_\_

---

(Form 15 — Magistrates' Courts Act)

**SEARCH WARRANT**  
(Criminal Procedure Code S. 101)

[GENERAL TITLE]

To all Police Officers within Solomon Islands

of  
has this day made an oath before the court that

And it appears to this Court that (according to reasonable suspicion) the said goods, or some of them, are concealed as aforesaid. You are therefore hereby authorised and commanded in Her Majesty's name, with proper assistance, by day

to enter the said  
if necessary by force, and there diligently to search for the said goods, and if the same or any thereof are found on search, to bring the goods so found before this Court, to be dealt with according to law.

Dated this            day of            19    .

Magistrate

*This Warrant may be executed during the hours of darkness.*

Magistrate

---

(Form 16 — Magistrates' Courts Act)

**SUMMONS TO WITNESS**  
(Criminal Procedure Code S. 127)

[GENERAL TITLE]

REGINA -v-

TO:

Whereas a charge(s) has/have been made on the complaint of  
that \_\_\_\_\_ of \_\_\_\_\_  
did commit the following offence(s):

Statement of Offence

Particulars of Offence

And it appearing to me that you are likely to give material evidence therein on  
behalf of the complainant/defendant

**YOU ARE THEREFORE HEREBY SUMMONED TO APPEAR** before  
the Magistrate's Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ at  
\_\_\_\_\_ o'clock and thereafter on succeeding days unless the court shall other-  
wise direct as long as may be required by the said court to testify what you  
know in the matter; [and also to bring with you and produce at the time and  
place aforesaid]

Dated this \_\_\_\_\_ day of 19 \_\_\_\_ .

Magistrate

*See reverse form*



---

This is the exhibit marked "A"  
referred to in the affidavit  
of

Sworn before me this                day of                19 .

**Magistrate/Commissioner for Oaths**

Served by me  
on the within-named  
on the                day of                19                at                o'clock in the                noon at

---

(Form 17 — Magistrates' Courts Act)

**WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS**  
(Criminal Procedure Code S. 128)

[GENERAL TITLE]

**REGINA -v-**

**To all Police Officers within Solomon Islands**

  of  
not having appeared in obedience to a summons requiring his attendance on the  
day of                19 , at the Magistrate's Court at                ,  
to give evidence on behalf of  
of                on a charge against  
  of

**THESE ARE TO COMMAND YOU** in Her Majesty's name to arrest and  
bring before me the said                to be dealt with  
according to law.

Dated this                day of                19 .

**Magistrate**

*See reverse form*

**ENDORSEMENT WHERE BAIL IS ALLOWED**  
(Criminal Procedure Code S. 90)

It is directed that the witness on arrest be released on bail on his/her entering into a recognisance in the sum of \$ \_\_\_\_\_ with \_\_\_\_\_ surety/sureties in the sum of \$ \_\_\_\_\_ [each], for his/her appearance before the Magistrate's Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at \_\_\_\_\_ o'clock

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Magistrate

(Form 18 — Magistrates' Courts Act)

**WARRANT FOR A WITNESS IN THE FIRST INSTANCE**  
(Criminal Procedure Code S. 129)

[GENERAL TITLE]

REGINA -v-

To all Police Officers within Solomon Islands

\_\_\_\_\_ of \_\_\_\_\_ having deposed to me that \_\_\_\_\_ [is in possession of material evidence/is a material witness] in respect of a charge against \_\_\_\_\_ and is not likely to give evidence unless compelled to do so:

**THESE ARE TO COMMAND YOU** in Her Majesty's name to arrest and bring the said \_\_\_\_\_ before me at the Magistrate's Court at \_\_\_\_\_ at \_\_\_\_\_ o'clock on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ to give evidence in the said matter and produce the following documents or things:

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Magistrate

---

(Form 19 — Magistrates' Courts Act)

**COMMITMENT OF REFRACTORY WITNESS**  
(Criminal Procedure Code S. 135)

**[GENERAL TITLE]**

To all Police Officers within Solomon Islands and to the Officer in Charge of the prison at

of  
having this day appeared before the Magistrate's Court held at  
as a witness at the hearing of a charge against  
of  
[refused without just excuse to be sworn (or affirmed)]  
[having been sworn (or affirmed) refuses  
[to answer any question put to him]  
[to produce any document or thing which he is required to produce]  
[to sign his deposition:]]

Whereupon the hearing of the said charge was adjourned to the          day of  
19          , and the said  
was ordered to be committed to prison until such date unless he sooner  
consents to do what is required of him:

**THESE ARE THEREFORE TO COMMAND YOU** the said Police Officers  
in Her Majesty's name to convey the said  
to the prison at          and there to deliver him to the Officer in charge  
thereof who is hereby directed to imprison him until such date unless he sooner  
consents to do what is required of him and then to bring him before this Court  
at such adjourned hearing as aforesaid.

Dated this          day of          19          .

**Magistrate**

---

(Form 20 — Magistrates' Courts Act)

**WARRANT TO REMAND DEFENDANT WHEN ARRESTED**  
(Criminal Procedure Code S. 95)

[GENERAL TITLE]

REGINA -v-

To all Police Officers within Solomon Islands and to the Officer in Charge of the prison at

of  
having been brought before me under arrest to answer the following charges(s):-

Statement of Offence

Particulars of Offence

**THESE ARE THEREFORE TO COMMAND YOU** the said Police Officers in Her Majesty's name to convey and deliver the said to the Officer in Charge of the prison at \_\_\_\_\_ who is hereby directed safely to keep him until the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ and then have him before the Magistrate's Court at \_\_\_\_\_ at \_\_\_\_\_ o'clock.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Magistrate

---

(Form 21 — Magistrates' Courts Act)

**WARRANT OF COMMITMENT FOR SAFE CONDUCT ON  
ADJOURNMENT OF HEARING**  
(Criminal Procedure Code S. 191)

[GENERAL TITLE]

**REGINA -v-**

**To all Police Officers within Solomon Islands and to the Officer in Charge  
of the prison at**

Whereas the hearing of a charge against  
has been adjourned to the            day of            19    at            o'clock  
at the Magistrate's Court at

**THESE ARE TO COMMAND YOU** the said Police Officers in Her  
Majesty's name to convey  
to the prison at            and there deliver him to the Officer in Charge  
thereof who is hereby directed safely to keep him until the said            day  
of            19    and then have him before me at the said adjourned hearing.

Dated this            day of            19    .

**Magistrate**

---

(Form 22 — Magistrates' Courts Act)

**WARRANT TO ARREST ACCUSED WHO HAS NOT  
APPEARED AFTER ADJOURNMENT**

(Criminal Procedure Code S. 192)

**[GENERAL TITLE]****REGINA -v-****To all Police Officers within Solomon Islands**

Whereas  
of \_\_\_\_\_ hereinafter called the accused, appeared  
before the Magistrate's Court at \_\_\_\_\_ to answer a charge(s) that he  
the said accused did commit the following offence(s):-

**Statement of Offence****Particulars of Offence**

And the hearing of the said charge(s) was adjourned to the \_\_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock at the Magistrate's Court  
at \_\_\_\_\_ at which time and place the accused failed to appear.

**THESE ARE TO COMMAND YOU** the said Police Officers in Her  
Majesty's name to arrest the accused and have him before me forthwith at the  
Magistrate's Court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Magistrate

---

(Form 23 — Magistrates' Courts Act)

**NOTICE OF CONVICTION OR ORDER**  
(Criminal Procedure Code S. 204)

**[GENERAL TITLE]**

**REGINA -v-**

**BE IT KNOWN** that on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ at  
the \_\_\_\_\_ Magistrate's Court  
of \_\_\_\_\_ was convicted of the following offence(s):

**Statement of Offence**

**Particulars of Offence**

**AND** it was ordered for his said offence that:

[he be imprisoned for \_\_\_\_\_ from the above-mentioned date]

[he pay a fine of \$ \_\_\_\_\_ and in default of payment he should be imprisoned  
for \_\_\_\_\_ ]

[he pay the sum of \$ \_\_\_\_\_ as compensation to \_\_\_\_\_  
of \_\_\_\_\_ and in default he should be imprisoned  
for \_\_\_\_\_ ]

[he pay the sum of \$ \_\_\_\_\_ to \_\_\_\_\_  
of \_\_\_\_\_ for his costs and in default be imprisoned  
for \_\_\_\_\_ ]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

**Magistrate**

---

(Form 24 — Magistrates' Courts Act)

DEPOSITION AT PRELIMINARY INQUIRY AND TRIAL  
(Criminal Procedure Code S. 212)

[GENERAL TITLE]

REGINA -v-

In the matter of a charge against the above-mentioned accused,  
of  
in the presence and hearing of the said accused deposes on oath (or as the case  
may be) as follows:

Taken before me on this                    day of                    19 .

Witness

Magistrate



---

(Form 25 — Magistrates' Courts Act)

**STATEMENT OF ACCUSED**  
(Criminal Procedure Code S. 215)

[GENERAL TITLE]

REGINA -v-

\_\_\_\_\_ of  
(hereinafter called the accused) stands charged this \_\_\_\_\_ day of  
19\_\_\_\_, with the following offence(s):

**Statement of Offence**

**Particulars of Offence**

[And the witnesses for the prosecution having each severally been examined in the presence of the accused]

[And the statements of the witnesses for the prosecution having been read over to the accused]

And the said charge being read and its nature explained in ordinary language to the accused:

The accused is now addressed by the Court as follows:

“You will have an opportunity to give evidence on oath before me and to call witness. But first I am going to ask you whether you wish to say anything in answer to the charge. You need not say anything unless you wish to do so; and you have nothing to hope from any promise, and nothing to fear from any threat, that may have been held out to induce you to make any admission or confession of guilt. Anything you say may be on oath or unsworn and will be taken down and may be given in evidence at your trial. Do you wish to say anything in answer to the charge?”

Whereupon the accused [makes no reply]  
[being sworn] says, as follows:]

*See reverse form*

And the above statement of the accused has been read over to him: and the accused has been told he may sign it if he wishes.

And the accused has been given an opportunity to give evidence himself and to call witnesses.

I certify that the above statement was given in my presence and hearing at the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ and that it contains accurately the whole statement [*or* evidence] given by the accused.

\_\_\_\_\_  
Magistrate

---

(Form 26 — Magistrates' Courts Act)

**WARRANT OF COMMITMENT IN CUSTODY FOR TRIAL**  
(Criminal Procedure Code S. 219)

[GENERAL TITLE]

**REGINA -v-**

To all Police Officers within Solomon Islands and to the Officer in Charge  
of the prison at

of  
(hereinafter called the accused) having been charged this day before the  
Magistrate's Court held at  
with the following offence(s):

**Statement of Offence**

**Particulars of Offence**

And the said Court after inquiry into the said offence having committed the  
accused for trial to the High Court to be held at  
on the                      day of                      19                      :

**THESE ARE TO COMMAND YOU** the said Police Officers in Her  
Majesty's name to convey and deliver the said accused to the Officer in charge  
of the prison at  
who is hereby directed safely to keep him until he shall be delivered in due  
course of law.

Dated this                      day of                      19                      .

**Magistrate**

*See reverse form*

**ENDORSEMENT WHERE BAIL IS ALLOWED**  
(Criminal Procedure Code S. 219)

It is directed that the accused may be released on bail on his/her entering into a recognisance in the sum of \$ \_\_\_\_\_ with surety/sureties in the sum of \$ \_\_\_\_\_ [each], for his/her appearance before the High Court \_\_\_\_\_ to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, to stand his/her trial upon any information preferred against him/her, [and, subject to the condition for his/her said appearance, to undergo medical examination by a duly qualified medical practitioner at \_\_\_\_\_ [and to reside, for the purpose of undergoing the said examination at the said place from the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, to the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ [or until he/she appears to stand his/her trial aforesaid]

Magistrate

(Form 27 — Magistrates' Courts Act)

**ORDER COMMITTING CORPORATION FOR TRIAL**  
(Criminal Procedure Code S. 219)

[GENERAL TITLE]

REGINA -v-

To the Director of Public Prosecutions

(hereinafter called the accused corporation) was this day charged before the Magistrate's Court held at \_\_\_\_\_ with the following offence:-

**Statement of Offence**

**Particulars of Offence**

And the said Court after inquiry into the said offence having determined to commit the accused corporation for trial to the High Court to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ :

You the Director of Public Prosecutions are hereby authorised and empowered to file an information in respect of the said offence in the High Court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

Magistrate

(Form 28 — Magistrates' Courts Act)

**COMMITMENT OF WITNESS FOR REFUSING TO ENTER  
INTO RECOGNISANCE TO GIVE EVIDENCE**

(Criminal Procedure Code S. 222)

**[GENERAL TITLE]**

To all Police Officers within Solomon Islands and to the Officer in Charge  
of the prison at

of  
having been charged this day before the Magistrate's Court held at  
with the following offence:-

**Statement of Offence**

**Particulars of Offence**

**AND** of  
having been examined before the Court concerning the said offence, and being  
required by the Court to enter into a recognisance conditioned to attend and  
give evidence on the trial of  
of refuses to do so:

**THESE ARE TO COMMAND YOU** the said Police Officers in Her  
Majesty's name to convey and deliver the said  
to the Officer in Charge of the prison at who  
is hereby directed safely to keep the said until  
after his trial for the offence aforesaid unless in the meantime the said  
shall enter into such recognisance as aforesaid in the sum of \$  
[with surety/sureties in the sum of \$ (each)] conditioned to appear at the  
next Session of the High Court and there to give evidence upon the trial of any  
information against the said accused in respect of the said offence.

Dated the            day of            19 .

*Magistrate.*

(Form 29 — Magistrates' Courts Act)

**WITNESSES BOUND OVER OR TREATED AS HAVING BEEN  
BOUND OVER CONDITIONALLY**  
(Criminal Procedure Code S. 224)

[GENERAL TITLE]

REGINA -v-

committed for trial at

List of witnesses whose attendance at the trial appears to the committing Court to be unnecessary and who have accordingly been bound over to attend the trial conditionally or have been treated as having been so bound over.

Name	Address	Occupation	If notice to attend has subsequently been issued by the Clerk to the committing Court, the date of issue shall be stated

Notice to attend the trial has been issued by me on the dates abovementioned to those witnesses against whose names a date is inserted in the last column hereof.

Dated this                      day of                      19                      .

\_\_\_\_\_  
Clerk of the Court

---

(Form 30 — Magistrates' Courts Act)

**NOTICE REQUIRING ATTENDANCE OF WITNESS BOUND OVER  
OR TREATED AS BOUND OVER CONDITIONALLY**

(Criminal Procedure Code S. 224)

[GENERAL TITLE]

REGINA -v-

To:

Whereas you were on the                      day of                      19                      bound over by a  
recognisance in the sum of \$                      to appear,

[upon notice being given to you, at the court specified in such notice and there  
to give evidence on the trial of                      ].

[at the next session of the High Court or at such other Court as you should be  
directed, to give evidence on the trial of                       
and whereas notice was subsequently given to you that you would not be  
required to attend the trial unless you received notice:]

**THIS IS TO GIVE YOU NOTICE** that you **ARE** required to appear at the  
next session of the High Court to be held at                      and there  
to give evidence accordingly and that unless you do so the said recognisance  
will be forthwith enforced against you.

Dated this                      day of                      19                      .

Clerk of Court/Registrar of the High Court

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(Form 31 — Magistrates' Courts Act)

**SUMMONS TO AN ASSESSOR**  
(Criminal Procedure Code S. 245)

[GENERAL TITLE]

REGINA -v-

To:

You are required to attend the Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ o'clock to act as an assessor at the trial of the above-named person.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

Magistrate

(Form 32 — Magistrates' Courts Act)

**SUMMONS TO INTERPRETER**  
(Criminal Procedure Code Ss. 184 and 250)

[GENERAL TITLE]

REGINA -v-

To: \_\_\_\_\_ of \_\_\_\_\_

**YOU ARE HEREBY REQUIRED TO ATTEND** this Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ o'clock to act as Interpreter to the trial of the above-mentioned person.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

Magistrate



---

(Form 33 — Magistrates' Courts Act)

**WARRANT OF COMMITMENT ON A CONVICTION WHERE  
THE PUNISHMENT IS BY IMPRISONMENT**

(Penal Code S. 24)

[GENERAL TITLE]

To all Police Officers within Solomon Islands and to the Officer in Charge  
of the prison at

WHEREAS \_\_\_\_\_ of  
was this day duly convicted before me of the following offence(s):-

**Statement of Offence**

**Particulars of Offence**

and it was thereby adjudged that the said  
for his offence(s) should be imprisoned in Her Majesty's Prison at  
and there to be kept for \_\_\_\_\_ from this day.

**THESE ARE THEREFORE TO COMMAND YOU** the said Police Officers  
to take the said  
and convey him to the said prison and deliver him to the Officer in Charge  
thereof who is hereby directed to imprison him for the time aforesaid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Magistrate

---

(Form 34 — Magistrates' Courts Act)

**WARRANT OF COMMITMENT ON A CONVICTION AND IN  
DEFAULT OF PAYMENT**  
(Penal Code S. 29)

[GENERAL TITLE]

**To all Police Officers within Solomon Islands and to the Officer in Charge  
of the prison at**

**WHEREAS** \_\_\_\_\_ of \_\_\_\_\_  
was on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ convicted before me of the  
following offence(s):-

**Statement of Offence**

**Particulars of Offence**

and it was thereby adjudged that the said \_\_\_\_\_  
for his offence(s) should pay a fine of \_\_\_\_\_ or in default of payment  
be imprisoned for \_\_\_\_\_ and whereas the said \_\_\_\_\_  
hath made default in the sum of \_\_\_\_\_ :

**THESE ARE THEREFORE TO COMMAND YOU** the said Police Officers  
to take the said \_\_\_\_\_ and  
convey him to Her Majesty's Prison at \_\_\_\_\_ and deliver him  
to the Officer in Charge thereof who is hereby directed to imprison him there  
said \_\_\_\_\_ and there to keep him for

from this day unless he shall pay a fine of

\_\_\_\_\_ dollars as aforesaid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Magistrate

(Form 35 — Magistrates' Courts Act)

**WARRANT OF DISTRESS UPON A CONVICTION  
AND IN DEFAULT OF PAYMENT**  
(Penal Code S. 28)

[GENERAL TITLE]

To all Police Officers within Solomon Islands

**WHEREAS** \_\_\_\_\_ of \_\_\_\_\_  
was on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ convicted before me of the  
following offence(s):-

**Statement of Offence**

**Particulars of Offence**

and it was thereby adjudged that the said  
should pay a fine of \$ \_\_\_\_\_ and should also pay to  
the sum of \$ \_\_\_\_\_ for costs (and compensation):

**AND** whereas the said \_\_\_\_\_ being so convicted and  
being required to pay the said sums of \$ \_\_\_\_\_ and \$ \_\_\_\_\_ has not paid the  
same but made default:

**THESE ARE THEREFORE TO COMMAND YOU** in Her Majesty's name  
forthwith to make distress of the goods and chattels of the said  
\_\_\_\_\_ and if within \_\_\_\_\_ days next after the making of such distress  
the said sums together with the reasonable charges of taking and keeping the  
distress shall not be paid that you sell the said goods and chattels and pay the  
money from such sale to the Clerk of the Magistrate's Court at  
\_\_\_\_\_ that he may pay and apply the same as by law directed and may render the  
surplus if any on demand to the said \_\_\_\_\_  
and if no such distress can be found then that you certify the same to me so that  
further proceedings may be taken according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

**Magistrate**

Note: If this warrant is executed outside the territorial limits of the jurisdiction  
of the court issuing the same it must be endorsed by a magistrate within  
the territorial limits of whose jurisdiction such property is found.

*See reverse form*

RETURN OF INSUFFICIENT DISTRESS

I, [insert rank and name]
stationed at [insert name] in the [insert name] Prison
Solomon Islands, hereby certify that, by virtue of this warrant, I have made
diligent search for the money and goods of the abovenamed
and that I can find no [sufficient] money or goods of him/her whereupon
sums specified in this warrant can be levied.

Dated this [insert day] day of [insert month] 19 [insert year]

Form 36 - Magistrates' Courts

WARRANT OF COMMITMENT FOR WANT OF DISTRESS
UPON A CONVICTION FOR A FINE
(Penal Code S. 30)

[GENERAL TITLE]

To all Police Officers within Solomon Islands and to the Officer in Charge
of the prison at [insert name]

WHEREAS [insert name] of [insert name]
was on the [insert day] day of [insert month] 19 [insert year] duly convicted before
of the following offence(s):-

Statement of Offence

Particulars of Offence

and it was thereby adjudged that the said
should pay a fine of \$ [insert amount] and should also pay to
sum of \$ [insert amount] for costs (and compensation) and it was thereby ordered that
the said sums should not be paid the said
should be imprisoned in Her Majesty's prison at [insert name] and there to be kept
for [insert duration]

AND whereas afterwards on the [insert day] day of [insert month] 19 [insert year]
warrant to all Police Officers within Solomon Islands commanding them to
levy the said sums of \$ [insert amount] and \$ [insert amount] by distress and sale of the goods
chattels of the said [insert name]

AND whereas it appears to me from the return of  
that no sufficient distress whereupon to levy the above-mentioned sum  
could be found.

**THESE ARE THEREFORE TO COMMAND YOU** the said Police Officers  
to take the said

and convey him to Her Majesty's prison at  
and deliver him to the Officer in Charge thereof who is hereby directed to  
imprison him and keep him for from this  
day unless the said sums and all the costs and charges of the distress and of the  
commitment and conveying of the said to the said  
prison amounting to a further sum of \$ shall be sooner paid.

Dated this            day of            19 .

**Magistrate**

\_\_\_\_\_  
(Form 37 — Magistrates' Courts Act)

***WARRANT OF DISTRESS FOR COSTS UPON AN  
ORDER OF DISMISSAL OF A CHARGE***  
(Penal Code S. 28)

[GENERAL TITLE]

**To all Police Officers within Solomon Islands**

**WHEREAS** on the            day of 19  
of            was charged before me of the following offence(s):-

**Statement of Offence**

**Particulars of Offence**

and I dismissed the same and adjudged that            of  
should pay to the said            the sum of \$  
for his costs incurred in his defence and has not paid the same

**THESE ARE THEREFORE TO COMMAND YOU** in Her Majesty's name  
 forthwith to make distress of the goods and chattels of the same  
 and if within \_\_\_\_\_ days next after making of such  
 distress the said sums together with the reasonable charges of taking and keep-  
 ing the distress shall not be paid that you sell the said goods and chattels and  
 pay the money from such sale to the Clerk of the Magistrate's Court at  
 that he may pay and apply the same as by law directed and may re-  
 der the surplus if any on demand to the said  
 and if no such distress can be found then that you certify the same to me so that  
 further proceedings may be taken according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

Magistrate

Note: If this warrant is executed outside the territorial limits of the jurisdiction  
 of the court issuing the same it must be endorsed by a magistrate within  
 the territorial limits of whose jurisdiction such property is found.

*See reverse form*

#### **RETURN OF INSUFFICIENT DISTRESS**

I, \_\_\_\_\_ [insert rank and number],  
 stationed at \_\_\_\_\_ in the \_\_\_\_\_ Province of Solomon Islands,  
 hereby certify that, by virtue of this warrant, I have made diligent search for the  
 money and goods of the abovenamed  
 and that I can find no [sufficient] money or goods of him/her whereupon the  
 sums specified in this warrant can be levied.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

Form 38 — Magistrates' Courts Act)

**WARRANT OF COMMITMENT FOR WANT OF DISTRESS  
UPON AN ORDER FOR DISMISSAL OF A CHARGE**  
(Penal Code S. 30)

[GENERAL TITLE]

To all Police Officers within Solomon Islands and to the Officer in Charge of the prison at

WHEREAS on the                    day of                    19  
of                    was charged before me with the following offence(s):-

**Statement of Offence**

**Particulars of Offence**

and I therefore dismissed the same and adjudged that                    of  
                  should pay to the said  
the sum of \$                    for his costs incurred in his defence and I ordered that if the  
said sum for costs should not be paid the said  
should be imprisoned in Her Majesty's prison at                    and there to be  
kept for

AND whereas afterwards on the                    day of                    19 I issued  
a warrant to all Police Officers within Solomon Islands commanding them to  
levy the said sum of \$                    for costs by distress and sale of the goods and  
chattels of the said

AND whereas it appears to me from the return of  
that no sufficient distress whereon to levy the above-mentioned sum could be  
found:

**THESE ARE THEREFORE TO COMMAND YOU** the said Police Officers  
to take the said  
and convey him to Her Majesty's prison at  
and deliver him to the Officer in Charge thereof who is hereby directed to  
imprison him for                    from this day unless the said  
sum and all costs and charges of the said distress amounting to a further sum  
of                    shall be sooner paid.

Dated this                    day of                    19 .

Magistrate

(Form 39 — Magistrates' Courts Act)

**ORDER AS TO RESIDENCE**  
(Penal Code, Ss. 175, 176 and 303)

[GENERAL TITLE]

To all Police Officers within Solomon Islands

**WHEREAS** \_\_\_\_\_ of  
on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, was duly convicted before me of  
the following offence(s)-

**Statement of Offence**

**Particulars of Offence**

and the said \_\_\_\_\_ was ordered  
by me to reside \_\_\_\_\_ at \_\_\_\_\_  
in the \_\_\_\_\_ Province for a period of \_\_\_\_\_ from this day

**THESE ARE THEREFORE TO COMMAND YOU** the said Police Officers  
to convey the said \_\_\_\_\_  
to such place and if he shall leave such place before the above-mentioned  
period expires he shall be liable to the penalties provided by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Magistrate

\_\_\_\_\_



(Form 40 — Magistrates' Courts Act)

**SPECIAL PROCEDURE IN MINOR CASES**  
(Criminal Procedure Code S. 209)

(FORM OF RECORD)

[GENERAL TITLE]

Held on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

Name of Accused: (1) \_\_\_\_\_ of \_\_\_\_\_  
(2) \_\_\_\_\_ of \_\_\_\_\_

Charge explained to Accused per attached charge sheet marked

Accused pleads: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

Prosecution witnesses and brief note of evidence:

- PW 1:
- PW 2:
- PW 3:
- PW 4:

Statement/evidence of Accused:

- (1)
- (2)

Defence witnesses and brief note of evidence:

- DW 1:
- DW 2:
- DW 3:

Finding:

Previous convictions:

Mitigation:

Sentence: Accused (1) \_\_\_\_\_  
Accused (2) \_\_\_\_\_

Any Special orders

**Magistrate**

Date

\_\_\_\_\_

(Form 41 — Magistrates' Courts Act)

**PROBATION ORDER**  
(Probation of Offenders Act S. 4)

[GENERAL TITLE]

Whereas \_\_\_\_\_ of  
(hereinafter referred to as the probationer) has this day been convicted of:-

AND whereas the Court is of the opinion having regard to the circumstances, including the nature of the offence(s) and the character of the probationer, that it is expedient to make a probation order:

AND whereas the Court has explained to the probationer the effect of this order (including the additional requirements specified below) and that if the probationer fails to comply therewith or commits another offence the probationer will be liable to be sentenced for the offence in respect of which this order is made, and the probationer has expressed willingness to comply with the requirements of this order:

Now therefore it is ordered that the probationer be required for the period of \_\_\_\_\_ years from the date of this order to be under the supervision of a probation officer assigned thereto by the Principal Probation Officer; and it is further ordered that the probationer shall during the said period comply with the following additional requirements:

1. That the probationer shall be of good behaviour and lead an industrious life.
2. That the probationer shall reside at \_\_\_\_\_
3. That the probationer shall inform the probation officer at once of any change of residence or employment.
4. That the probationer shall keep in touch with the probation officer in accordance with such instructions as may from time to time be given by the probation officer and in particular shall, if the probation officer so requires, visit the probation officer personally at such place as the probation officer may specify, or receive visits from the probation officer at the probationer's home, at such times as the probation officer shall direct.
5. \_\_\_\_\_

Dated this \_\_\_\_\_ day \_\_\_\_\_ of 19. \_\_\_\_\_

Magistrate

(Form 42 — Magistrates' Courts Act)

**ORDER AMENDING PROBATION ORDER**

(Probation of Offenders Act S. 5)

**[GENERAL TITLE]**

ON the            day of            19     the Magistrate's Court at  
did make a probation order which [as subsequently amended by  
the            Court] required            of  
(herinafter referred to as the probationer) to be under the super-  
vision of a probation officer for a period of            years from the above-  
mentioned date and further required the probationer to:

NOW upon the application of            this Court amends the  
said probation order as follows:

Dated this            day of            19     .

Magistrate

\_\_\_\_\_  
(Form 43 — Magistrates' Courts Act)

**ORDER DISCHARGING PROBATION ORDER**

(Penal Code S. 5)

**[GENERAL TITLE]**

ON the            day of            19     the Magistrate's Court at  
did make a probation order which [as subsequently amended by the  
Court] required  
of            to  
be under the supervision of a probation officer for a period of            years  
from the above-mentioned date and the said probation order not containing a  
direction reserving the power of discharge to any other Court:

NOW upon the application of  
this Court hereby discharges the said probation order.

Dated this            day of            19     .

Magistrate

\_\_\_\_\_

(Form 44 — Magistrates' Courts Act)

**ORDER FOR CONDITIONAL DISCHARGE**  
(Penal Code S. 35)

[GENERAL TITLE]

**WHEREAS** \_\_\_\_\_ of  
(hereinafter referred to as the defendant) was this day charged with the follow-  
ing offences(s):

**Statement of Offence**

**Particulars of Offence**

**AND** whereas the Court is of the opinion that the facts constituting the offence charged have been proved but that, having regard to the circumstances including the nature of the offence charged and the character of the defendant, it is inexpedient to inflict punishment or to make a probation order:

**NOW THEREFORE IT IS ORDERED** that the defendant be discharged subject to the condition that the defendant:

1. commits no offence during the period of \_\_\_\_\_ years after the date of this order
2. pays to \_\_\_\_\_ the sum of \_\_\_\_\_ dollars by way of compensation
3. \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Magistrate

\_\_\_\_\_

(Form 45 — Magistrates' Courts Act)

**COMMITMENT ON FAILURE TO COMPLY WITH REQUIREMENT  
OF PROBATION ORDER OR CONDITIONAL DISCHARGE**

(Probation of Offenders Act S. 7)

(Penal Code S. 35)

**[GENERAL TITLE]**

To all Police Officers within Solomon Islands and to the Officer in Charge of the prison at

**WHEREAS** \_\_\_\_\_ of \_\_\_\_\_  
was on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at the  
Court subjected to a [probation order] [order of conditional discharge];

**AND WHEREAS** it has been proved to this court that the said  
\_\_\_\_\_ did on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ fail to comply with a  
condition of the said order namely that he/she

**AND WHEREAS** this Court has therefore adjudged the said  
\_\_\_\_\_ to be imprisoned in Her Majesty's Prison at \_\_\_\_\_ and there to  
be kept for \_\_\_\_\_ from this day:

**THESE ARE THEREFORE TO COMMAND YOU** the said Police Officers  
to take the said \_\_\_\_\_ and convey him/her to the said prison  
and deliver him/her to the Officer in Charge thereof who is hereby directed to  
imprison him/her for the time aforesaid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

**Magistrate**

\_\_\_\_\_

(Form 46 — Magistrates' Courts Act)

**ORDER FOR COMMITTAL OF PERSON UNDER THE AGE OF 16 YEARS TO CARE OF FIT PERSON**

(Penal Code S. 36)  
(Juvenile Offenders Act S. 16)

**[GENERAL TITLE]**

WHEREAS this Court considers that the charge under section \_\_\_\_\_ of the Penal Code against \_\_\_\_\_ (hereinafter called the accused) has been proved but is of the opinion that the said accused is under the age of 16 years and is in need of care, protection or control:

NOW therefore it is ordered that the said accused be committed to the care of \_\_\_\_\_ of \_\_\_\_\_ a fit person who is willing to undertake the care of the said accused until the said accused attains the age of eighteen years or such earlier date as is ordered by the Court or until this is varied or cancelled by the Court.

[And it is further ordered that \_\_\_\_\_ pay the sum of \_\_\_\_\_ \$ \_\_\_\_\_ per month towards the maintenance of the said accused to be paid to the Magistrate's Court at \_\_\_\_\_].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Magistrate

\_\_\_\_\_

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(Form 47 — Magistrates' Courts Act)

**RECOGNISANCE TO APPEAR AND RECEIVE SENTENCE**  
(Penal Code S. 33)

[GENERAL TITLE]

WHEREAS I, \_\_\_\_\_ of \_\_\_\_\_  
have been convicted of the following offence(s):

**Statement of Offence:**

**Particulars of Offence:**

AND WHEREAS the Court considered it expedient to make an order under section 33 of the Penal Code

NOW THEREFORE I, \_\_\_\_\_ of \_\_\_\_\_  
hereby acknowledge myself bound to the Court in the recognisance of \$ \_\_\_\_\_  
[with \_\_\_\_\_ of \_\_\_\_\_ as surety in the sum of \$ \_\_\_\_\_  
and \_\_\_\_\_ of \_\_\_\_\_ as surety in the sum of \$ \_\_\_\_\_ ]  
to appear and receive sentence for the said offence(s) when called upon by the  
Court to do so during the period of \_\_\_\_\_ from the date of this  
recognisance and in the meantime to keep the peace and be of good behaviour.

I further am aware that should I fail to keep any of the terms of this  
recognisance I may be arrested on warrant from this Court.

*See reverse form*





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(Form 49-Magistrates' Courts Act)

**WARRANT OF COMMITMENT UPON AN ORDER FOR A  
PARTIALLY SUSPENDED SENTENCE OF IMPRISONMENT**

(Penal Code S. 44(1)(b))

[GENERAL TITLE]

**TO all Police Officers and to the Officer in Charge of the Prison at**

Name: \_\_\_\_\_ Age: \_\_\_\_\_ years

Address:

has been convicted of the following offence(s):

**Statement of Offence:**

**Particulars of Offence:**

and I have today sentenced him to imprisonment for \_\_\_\_\_  
but I have ordered that after he has served \_\_\_\_\_ the remaining  
shall not take effect unless during a period of \_\_\_\_\_  
he commits another offence punishable with imprisonment and a court orders  
that the remainder of this sentence shall take effect.

**YOU** are therefore commanded to take \_\_\_\_\_ and  
convey him to the prison at \_\_\_\_\_ and there deliver him to the  
Officer in Charge who is hereby directed to imprison him for the period of \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

\_\_\_\_\_  
Magistrate

(Form 50 — Magistrates' Courts Act)

WARRANT OF COMMITMENT FOR SENTENCE OF IMPRISONMENT  
WHERE A SUSPENDED SENTENCE IS PUT INTO EFFECT  
(Penal Code S. 45)

[GENERAL TITLE]

To all Police Officers and to the Officer in Charge of the Prison at

PREVIOUSLY at the Magistrate's Court on the day of  
19 of  
was convicted of the following offence(s):-

Statement of Offence:

and was sentenced to imprisonment for but the term [of  
of that sentence] was ordered to be suspended for

NOW TAKE NOTICE that the same  
has been convicted of the following offence(s) committed during the  
operational period of that suspended sentence:-

Statement of Offence:

Particulars of Offence:

[and I have sentenced him to imprisonment for a period of  
AND I HAVE FURTHER ORDERED that the suspended sentence shall take  
effect with  
[the original term unaltered]  
[the substitution of a term of ]

YOU ARE COMMANDED therefore to take  
and convey him to HerMajesty's prison at  
there deliver him to the Officer in Charge who is hereby directed to imprison  
him for the period of

Dated this day of 19 .

Magistrate

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(Form 51 — Magistrates' Courts Act)

**ORDER SUBSTITUTING A NEW PERIOD OF SUSPENSION OF  
A SENTENCE OF IMPRISONMENT**

[Penal Code S. 45(1)(c)]

[GENERAL TITLE

**PREVIOUSLY** at the  
the            day of            19  
was convicted of the following offences(s):

Magistrate's Court on  
of

**Statement of Offence:**

and was sentenced to imprisonment for            but the term

[of that sentence]

[of            of the sentence]

was ordered to be suspended for

**NOW TAKE NOTICE** that the same            has been  
convicted of the following offence(s) committed during the operational period  
of that suspended sentence:-

**Statement of Offence:**

**Particulars of Offence:**

**BUT** I have today ordered that the original period of suspension shall be var-  
ied by the substitution of a new period of

**THIS NEW PERIOD OF SUSPENSION RUNS FROM            TO**

Dated the            day of            19 .

Magistrate

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(Form 52 — Magistrates' Courts Act)

ORDER FOR SUSPENDED SENTENCE SUPERVISION  
(Penal Code S. 46)

SOLOMON ISLANDS  
IN THE MAGISTRATE'S COURT

Criminal Case No: CRC / / MC

TO

Address:

TAKE NOTICE that of

has been convicted of the following offence(s):

Statement of Offence:

Particulars of Offence:

and has today been sentenced to imprisonment for but I have  
ordered that the sentence shall not take effect unless during a period of  
from this date he commits another offence punishable with  
imprisonment and a court orders that this sentence shall take effect.

I have further ordered that  
be placed under your supervision for a period of from today  
and I hereby appoint you to be his supervising officer. This period will  
terminate on the day of 19 .

Should fail to comply  
with any of the following conditions you must notify the Magistrate's Court at  
immediately.

The conditions of this Order are that:

- (1) he must contact you not later than the day of 19 .
- (2) he shall keep in touch with you in accordance with your instructions.
- (3) he must inform you of any change of address before he moves.

Failure to comply with those conditions will render liable to a fine of  
\$300.

Dated the day of 19 .

Magistrate

MAGISTRATES' COURTS (CIVIL PROCEDURE) RULES.  
(Section 76)

LN. 71/1969  
LN 8/1976  
LN 40/89  
LN 118/90

[1st September 1969]

1. These Rules may be cited as the Magistrates' Courts (Civil Procedure) Rules.

Citation

2. These Rules shall apply in all civil causes or matters to which they extend in any Magistrate's Court in Solomon Islands constituted under section 3 of the Act, and are divided into Orders as follows —

Application and  
Orders

Order	Title
1.	Interpretation
2.	Forms, Fees, Allowances and Costs
3.	Computation of Time
4.	Miscellaneous Provisions
5.	Representation
6.	Evidence
7.	Commencement of Suit
8.	Service of Process
9.	Parties
10.	Particulars of Claim
11.	Appointment of Guardian <i>ad litem</i>
12.	Alteration of Parties
13.	Discontinuance of Suits.
14.	Place of Trial and Institution of Suits.
15.	Amendments
16.	Admissions
17.	Settlement of Issues
18.	Inquiries and Accounts
19.	Appearance of Parties
20.	Arrest of Absconding Defendant
21.	Interim Attachment of Property

22. Preservation of Disputed Property
23. Equitable Relief, Counterclaim, Set-off
24. Tender
25. Discovery and Production of Documents
26. Motions and Orders to Show Cause
27. Postponement of Hearing
28. Non-attendance of Parties at Hearing
29. Proceedings at Hearing
30. Judgment
31. Costs
32. Enforcement of Orders
33. Interpleader
34. Execution

## ORDER 1.

*Interpretation*

## Interpretation

1. In these Rules, unless the context otherwise requires—
  - “advocate” means any legal practitioner entitled to practise in the High Court in accordance with the provisions of any law for the time being in force;
  - “authorised representative” in relation to a party means a person, not being an advocate, who is, to the satisfaction of the court, authorised by a party to represent him in any cause or matter;
  - “cause” includes any action, suit or other original proceeding between a plaintiff and a defendant but does not include criminal proceedings by the Crown;
  - “court” means a Magistrate’s Court constituted under section 3 of the Act;
  - “defendant” includes any person served with any writ of summons or process or served with notice of or entitled to attend any proceedings;
  - “English” includes pidgin English;
  - “matter” means any legal proceeding not being a cause;
  - “party” includes every person served with notice of or attending any proceedings, otherwise than as a witness only, although not named on the record;

“plaintiff” includes every person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise.

## ORDER 2

### *Forms, Fees, Allowances and Costs*

1. No writ or process shall be rendered invalid by lack of sealing in addition to the signature of a Magistrate or Clerk of Court, as the case may be, unless sealing is specifically prescribed by some law or Rule of Court.

Sealing of writs

2. The forms in Appendix A, or forms to the like effect, may be used in all matters, causes and proceedings to which they are applicable, with such variations as circumstances may require:

Forms  
Appendix A

Provided that in any proceedings for which forms are not prescribed in these Rules, the Magistrate, or Clerk of Court, as the case may be, may frame any form required in any particular case using as a guide the appropriate form contained in the High Court (Civil Procedure) Rules, 1964, modified as circumstances may require.

3. Where by any Rule of Court any party to or witness in any cause or matter is required to file an affidavit, in any form such party or witness may appear before the court in which the cause or matter lies and give oral evidence of the particulars required and the record of such evidence shall be sufficient compliance with such rule.

Affidavits

4. The fees specified in Appendix B shall be paid by the party at whose instance they are incurred, and may afterwards be recovered as costs in the cause if the court shall so order:

Fees  
Appendix B

Provided that the court may in its discretion, on account of the poverty of any party, although such party may not have been formally admitted to sue or defend *in pauperis*, or for other sufficient reason, dispense with the payment of any such fees.

5. Costs shall be allowed to advocates and taxed in accordance with the scale of costs specified in Appendix C:

Scale of fees  
Appendix C  
and D

Provided that unless the court otherwise directs —

(a) in defended causes or matters in which the subject matter or the amount recovered does not exceed one hundred dollars in value such costs shall be taxed in accordance with the scale specified in Part I of Appendix D; and

(b) in undefended causes or matters such costs shall be taxed in accordance with the scale specified in Part II of Appendix D.

### ORDER 3

#### *Computation of Time*

Time  
Cap. 85

1. Computation of time shall be in accordance with the provisions of section 49 of the Interpretation and General Provisions Act:

Provided that the parties to any cause or matter may by consent enlarge or abridge any time fixed by the court for taking any step, or filing any document, or giving any notice; and where such consent cannot be obtained, either party may apply to the court for an order to effect the object sought to have been obtained with the consent of the other party, and such order may be made although the application for the order is not made until after the expiration of the time allowed or appointed.

### ORDER 4

#### *Miscellaneous Provisions*

Sittings of court

1. The sittings of the court for the hearing of causes or matters shall ordinarily be in public; but the court may for reason to be specified in the trial record, hear any particular cause or matter or any part thereof in the presence only of the parties thereto with their advocates or other authorised representatives, if any, and the officers of the court.

Making of  
orders, etc.

2. Subject to any particular rules, the court may, in all causes or matters, make any interlocutory order or ruling which it considers necessary for doing justice, whether such order or ruling has been expressly requested by the person entitled to the benefit thereof or not.

Consolidation of  
cases

3. Causes or matters pending in the court may be consolidated in the discretion of the court, and the court shall give any



directions that may be necessary as to the conduct of such consolidated actions.

4.—(1) The language of every court shall be English, and if in any cause or matter the Magistrate considers that any party thereto or any witness giving evidence therein is incapable of sufficiently understanding the English language he shall, upon payment of the prescribed fee for interpretation, either himself, if he is competent in the language of such party or witness, interpret the proceedings so far as may be necessary, or appoint a fit and proper person to interpret the same.

Language and  
interpretation

(2) Where the Magistrate himself or any public officer acts as interpreter as aforesaid no remuneration shall be payable in respect of the interpretation, but where a person other than the Magistrate or a public officer is the interpreter that person shall be entitled to payment out of the fee to him as remuneration for his services.

(3) The prescribed fee for interpretation shall in all cases be payable in the first place by the plaintiff and shall be taxed as costs in the cause.

(4) Before interpreting at any sessions of the court, the interpreter, not being the trial Magistrate himself shall swear or make affirmation in the following form —

“I swear by Almighty God (or solemnly, sincerely and truly declare and affirm) that I will do my best to interpret and explain truly to the court and witnesses all such matters as I shall be required to interpret and explain.

So help me God (*omit if affirmation*).”

5.—(1) When any fee is or any costs are paid to the court, the Magistrate or the clerk of court shall issue a receipt therefor in the name of the person paying such fee or costs, as the case may be.

Receipts

(2) When any fee is paid in respect of any document the Magistrate or the clerk of court shall endorse a note of the amount of the fee paid and the number of the receipt issued therefor upon the original and upon any filing copy of such document.

6. There shall be kept in every court a register in such form as the Registrar of the High Court may from time to time direct, in which all actions instituted in the court shall be entered and

Court registers

numbered consecutively in each year, according to the order in which the same shall be commenced; and the particulars of each action, and a note of the steps and proceedings therein shall be entered in such register in such manner as the Registrar of the High Court may direct.

Application of  
High Court  
Rules

7. In the event of there being no provision in these Rules to meet any particular circumstance arising in any cause or matter before the court, the court and the parties shall be guided by any relevant provision contained in the High Court (Civil Procedure) Rules, 1964.

Power to enlarge  
or abridge time

8. A court or a Judge shall have power to enlarge or abridge any time prescribed by these Rules or fixed by any order in any cause or matter for the doing of any act or taking any proceedings upon such terms, if any, as the justice of the case may require; and any such enlargement may be ordered although the application therefor has not been made until after the expiration of the time prescribed or allowed:

Provided that when the time for delivering any pleading or document or filing any affidavit, answer to document or the doing of any act has been fixed or limited by any of these Rules or by any direction or order of any court or any Judge the costs of the application to extend such time and of any order made therein shall be borne by the party making such application unless the court or the Judge shall otherwise order.

#### ORDER 5

#### *Representation*

Change of  
advocate during  
proceedings

1. A party suing or defending by an advocate in any cause or matter shall be at liberty at any stage of the proceedings to change his advocate without an order of the court for that purpose, upon notice in writing being filed with the Magistrate or the clerk of court in which the cause or matter may be proceeding; but until such notice is filed, the former advocate shall be deemed to be the advocate of the party until final judgment, unless allowed by the court for any special reason to cease from acting:

Provided that no such advocate shall be bound, unless under express agreement, or re-engaged, to take any proceedings in relation to any appeal from such judgment.

2. With the leave of the Magistrate a party to any cause or matter may be represented or assisted at every or any stage of the proceedings by some other person, not being an advocate and any undertaking given by such person to the court or order or direction communicated by the court to such person shall be as binding upon such party for all purposes of the proceedings as though it were given by or communicated to his advocate.

Lay  
representation

#### ORDER 6

##### *Evidence*

1. On the application of any party to any cause or matter, or of its own motion, the court may order witnesses on both sides to be kept out of court both before and after they have given their evidence; but this rule shall not extend to the parties themselves or to their professional or other authorised representative, although intended to be called as witnesses.

Exclusion of  
witnesses

2. The court may during the trial of any cause or matter take such steps as it considers necessary and proper for preventing communication with witnesses who are within the court or its precincts awaiting examination or having been examined.

Preventing  
communication  
with witnesses

3. Any person, whether a party or not, in any cause or matter may be summoned to produce a document without being summoned to give evidence, and, if he causes such document to be produced in court, the court may dispense with his personal attendance.

Documentary  
evidence

4. Before an affidavit is used in the court for any purpose, the original shall be filed in the court, and the original or an office copy thereof shall alone be recognised for any purpose in the court.

Affidavit  
evidence

5. No affidavit shall be admitted if it is proved to have been sworn before a person on whose behalf the same is tendered, or before his advocate or other authorised representative or before a partner or clerk of his advocate or said representative.

Affidavit not to  
be accepted in  
certain cases

6. The court may permit an affidavit to be used, notwithstanding that it is defective in form according to these Rules, if the court is satisfied that it has been sworn before a person duly authorised to administer oaths.

Affidavits  
defective in form

Amendment and  
reswearing of  
affidavit

**7.** A defective or erroneous affidavit may be amended and resworn with the leave of the court on such terms as to time, costs or otherwise as the court may direct.

Matter not to be  
included in  
affidavit

**8.** No affidavit shall contain extraneous matter by way of objection or prayer or legal argument or conclusion.

Contents of  
affidavit

**9.** Every affidavit used in the court shall contain only a statement of facts and circumstances to which the witness deposes, either of his own personal knowledge or from information which he believes to be true.

Grounds of  
belief to be  
stated

**10.** When a witness deposes to his belief in any matter of fact, and his belief is derived from a source other than his own personal knowledge, he shall set forth explicitly the facts and circumstances upon which his belief is based.

Informant to be  
named

**11.** When the belief of a deponent is derived from information received from another person, the name of his informant shall be stated, and reasonable particulars shall be given respecting the informant, and the time, place and circumstances of the information.

Costs of certain  
affidavits

**12.** The costs of any affidavit contravening any of the provisions of rules 8, 9, 10 or 11 shall be paid by the party filing the same.

Rules for taking  
affidavits

**13.** The following rules shall be observed by commissioners for oaths and other persons (in this rule referred to as "commissioner") before whom affidavits are sworn —

(a) every affidavit taken in any cause or matter shall be headed in the court and in the cause or matter;

(b) it shall state the full name, trade or profession or other description and place of residence of the deponent;

(c) it shall be written in the first person and divided into convenient paragraphs and numbered consecutively;

(d) any erasure, interlineation or alteration made before the affidavit is sworn shall be attested by the commissioner who shall affix his signature or initials in the margin immediately opposite the erasure, interlineation or alteration;

(e) where an affidavit proposed to be sworn is illegible or difficult to read, or is, in the opinion of the

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commissioner so written as to facilitate fraudulent alteration, he may refuse to swear the deponent and require the affidavit to be rewritten in an unobjectionable manner;

(f) the affidavit shall be signed by the deponent (or if he is illiterate marked with his thumbprint or his mark) in the presence of the commissioner;

(g) the jurat shall be written without erasure, interlineation or alteration (unless the same be signed or initialled as aforesaid) immediately at the foot of the affidavit and towards the left hand side of the paper and shall be signed by the commissioner:

It shall state the date of the swearing and the place where it is sworn.

It shall state that the affidavit was sworn before the commissioner.

Where the deponent is illiterate or blind it shall state the fact and also state that the affidavit was read over (or translated into his own language in the case of a deponent not having a sufficient knowledge of English) and that the deponent appeared to understand it.

Where the deponent makes his thumbprint or mark instead of signing, the jurat shall state that fact and that the thumbprint or mark was made in the presence of the commissioner.

Where two or more persons join in making an affidavit, their several names shall be written in the jurat, and it shall appear by the jurat that each of them has been sworn to the truth of the several matters stated by him in the affidavit;

(h) the commissioner shall not allow the affidavit when sworn to be altered in any manner without being resworn;

(i) if the jurat has been added and signed, the commissioner shall add a new jurat on the affidavit being resworn and in the new jurat he shall mention the alteration;

(j) the commissioner may refuse to allow the affidavit to be resworn and may require a fresh affidavit;

(k) the commissioner may take without oath the declaration of any person affirming that the taking of any oath whatsoever is, according to his religious belief or conscience, unlawful or who, by reason of immature age or want of religious belief, ought not, in the opinion of the commissioner, to be permitted to make a sworn affidavit;

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and in any such case the commissioner shall record in the attestation the reason why such declaration was taken without oath.

Objections to evidence

**14.** Any objection to the admissibility of evidence by a party to any cause or matter shall be taken at the time when the evidence is lead:

Provided that an appellate court may, in its discretion, entertain any objection to the admission of evidence received in the court below although no objection was raised in that court at the time when the evidence was admitted or at all.

Objections to questions

**15.** Where a question proposed to be put to a witness is objected to by either party to any cause or matter, the court, unless the objection appears frivolous, shall, if so required by such party, record a note of the question and the objection and shall make and record its ruling whether or not the question may be put, and if the question is allowed the court shall record the answer thereto.

Marking of rejected documents

**16.** Where any document tendered in evidence in any cause or matter is rejected by the court the document shall be marked as having been so tendered and rejected.

Method of taking evidence

**17.** In the absence of any agreement between the parties, and subject to these Rules, the witnesses at the trial of any cause or matter shall be examined orally and in open court; but the court may at any time for sufficient reason to be recorded in the record direct that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing on such conditions as the court may consider just, or that any witness, whose attendance at the court ought for sufficient reason to be dispensed with, be examined before an officer of the court or other proper person:

Provided that where it appears to the court that the other party bona fide requires the production of a witness for cross-examination, and that such witness can be produced before the court, an order shall not be made authorising the evidence of such witness to be given by affidavit.

Admission of evidence by affidavit

**18.** In any cause or matter the court may in its discretion if the interests of justice appear so to require, for reasons to be recorded in the record, admit an affidavit in evidence although it is shown that the party against whom the affidavit is tendered has

had no opportunity to cross-examine the person making the affidavit.

**19.** The court may in any cause or matter in which it appears necessary in the interests of justice make an order for the examination of any witness before any officer of the court or other proper person and may order any deposition so taken to be filed in the court and may permit any party to the cause or matter to give such deposition in evidence on such terms, if any, as the court may direct:

Evidence on commission

Provided that where it is desired that evidence be taken on commission outside Solomon Islands, the court shall make application to the High Court or to a Judge thereof for such evidence to be obtained; and the High Court or such Judge may order that the proceedings be transferred to the High Court for that purpose.

**20.** Evidence on commission shall be taken, as nearly as may be, as evidence at the hearing of a suit, and then the record of the evidence taken shall be read over to the witness and be signed by him, and countersigned by the commissioner; and if the witness refuses to sign, the commissioner shall add a note of his refusal and the recorded statement may be used as if the witness had signed it.

The taking of evidence on commission

**21.** Evidence may be taken in the manner prescribed by rule 20 on the application *ex parte* to a court of any person before a suit is instituted where it is shown on oath to the satisfaction of the court that the person applying has good reason to anticipate that a suit will be instituted against him in the court and that some person within the jurisdiction at the time of the application can give material evidence respecting the subject matter of the suit apprehended, but that he is about to leave the jurisdiction, or that, from some other cause, the person applying will lose the benefit of his evidence if it be not at once taken; and the evidence so taken may be used at the subsequent hearing:

Evidence before suit instituted

Provided that the court may impose such terms or conditions with reference to the examination of such witness and as to the admission of such evidence as the court may consider appropriate to ensure that justice be done.

**22.** Any party wishing to give in evidence any deed or other instrument which shows upon the face of it that it has been duly executed may deliver to the opposite party, not less than four

Facilities for proving deed or other instrument

days before the date fixed for the hearing of the suit, a notice in writing specifying the date and nature of and the parties to such deed or other instrument, and requiring the opposite party to admit that the same was executed as it purports to have been, saving all just exceptions as to its admissibility, validity and contents; and if, at or before the hearing of the suit, the party so notified shall refuse or neglect to give such admission, the court may adjourn the hearing to enable the party tendering such deed or other instrument to obtain proof of its execution, and, upon production of such proof, the court may order that the party refusing or neglecting to give the admission required shall pay the costs of such adjournment and proof whether he be the successful party in the action or not.

## ORDER 7

*Commencement of Suit*

Commencement  
by writ of  
summons

1. Every suit shall be commenced by a writ of summons which shall be issued by the Magistrate or the clerk of court upon application being made therefore either orally or in writing to the court.

Contents of writ  
of summons.  
Appendix A.  
Forms 1 and 2

2. The writ shall contain the name, place of residence and occupation, if any, of the plaintiff and of the defendant, or if more than one of each of them, so far as they can be ascertained and the date (called the "return day") and place of hearing; and there shall be endorsed on the writ particulars of the claim, signed by the plaintiff or his advocate or other authorised representative, which shall state concisely and clearly the subject matter of the claim and the relief sought.

Date of writ of  
summons

3. Every writ of summons shall bear the date of the day upon which it is issued.

Writ of summons  
to be void if  
altered

4. Any alteration of a writ of summons without the leave of the court shall render such writ void.

Time for service  
of writ

5. Every writ of summons issued by a court in Honiata Township shall be served not less than seven days before the return day if the defendant resides within the boundaries of that Township and in all other cases whether the writ is issued by a court in that Township or elsewhere, within such period as the court may endorse upon the writ, not being less than seven days.



Provided that the court may from time to time either on application of either party or of its own motion extend the date of hearing of a writ of summons which has not been served in time or for other sufficient reason.

#### ORDER 8

#### *Service of Process*

1.—(1) Every writ of summons, petition, notice, order or other document of which service is required shall be served through the court unless a Magistrate directs that service shall be arranged by the advocate of the party requiring service to be effected, or his authorised representative or some other person:

Service to be  
through court

Provided that in no case may the plaintiff in any action serve or be directed to serve a writ of summons himself upon a defendant thereto.

(2) Nothing in paragraph (1) shall be construed to prevent an officer of any company, association, club or other organisation, whether corporate or unincorporate, from personally serving a writ of summons upon any defendant to an action brought against him by such company, association, club or other organisation.

(3) Any person serving any writ of summons, petition, notice, order or other document shall, on request of the party served, endeavour to the best of his ability to explain to such party the nature of the document served.

Proof of service

2. Proof of service may be either by oral or by affidavit evidence:

Provided that where the service is effected by a police officer, bailiff or other officer of the court, a declaration in writing stating the date and time of service may be accepted as sufficient evidence of service until the contrary be shown, and such declaration may be endorsed on the file copy of the summons.

Appendix A  
Form 3

3. Unless in any case the court considers it just and expedient otherwise to direct, service shall be personal, that is to say, the document to be served shall be delivered to the person to be served himself.

Service to be  
personal

Original need not  
be shown

4. Service shall be completely effected by the delivery of a duplicate or attested copy of any document without the exhibition of the original.

Substituted  
service

5. Where it appears to the court, either after or without an attempt at personal service, that, for any reason, personal service cannot be conveniently effected, the court may direct that service be effected —

(a) by delivery of the document to some adult inmate at the usual or last known place of residence or business of the person to be served; or

(b) by delivery thereof to some person being an agent of the person to be served, or to some other person upon it being proved that there is a reasonable probability that the document will, through that agent or other person, come to the knowledge of the person to be served; or

(c) by advertisement in the Gazette or in any "new-sheet" or newspaper circulating in the jurisdiction of the court; or

(d) by notice posted at the court house or some other place of public resort in the district wherein the proceeding in respect of which the service is made is instituted, or at the usual or last known place of residence or business of the person to be served; or

(e) by sending the document by registered prepaid post addressed to the person to be served at his last known place of residence or business; or

(f) by any combination of the foregoing methods:

Provided that if service is to be effected by method (c) or (e) aforesaid, the party requiring the service to be effected shall, before service, pay to the court the cost of the advertisement, postage or other special expense involved.

Power to vary an  
order for service

6. An order for service may be varied from time to time with respect to the method of service directed by the order.

*Dies non*

7. Service in civil proceedings shall not be made on a Sunday, Good Friday or Christmas day.

Service on  
partners and  
companies

8.— (1) Where partners are sued in the name of their firm, the writ of summons or other document shall be served either upon any one or more of the partners or at the principal place of business of the partnership upon any person appearing to be over the

age of eighteen years and to have, at the time of service, the control or management of the partnership business; and such service shall be deemed good service upon the firm.

(2) Where a writ of summons is issued against a firm, every person upon whom it is served shall be informed by notice in writing given at the time of the service, or endorsed on the writ of summons, whether he is served as a partner or as a person having the control or management of the partnership business or in both such capacities; and in default of such notice, the person served shall be deemed to be served as a partner.

(3) Service on a company shall be effected in accordance with the provisions of the Companies Act relating to service of documents.

Cap. 175

9. Where the person to be served with a writ of summons or other document is a prisoner in a prison, it shall be sufficient service to deliver the writ or other document at the prison to the officer for the time being in charge of the prison, who shall cause the same to be served on the prisoner.

Service on a  
prisoner

10. Where the person to be served is employed or dwells in any mental hospital or other public asylum or in a prison, it shall be sufficient service to deliver the writ of summons or other document to be served to the person in charge of such hospital, asylum or prison, who shall cause the same to be served on such person.

Service on  
person employed  
in asylum or  
prison

11. Where the suit is against a defendant residing outside Solomon Islands but carrying on business within Solomon Islands in his own name, or under the name of a firm, through an authorised agent and such suit is limited to a cause of action which arose within the jurisdiction of the court, the writ or other document may be served by giving it to such agent, and such service shall be deemed for all purposes to be a personal service upon the defendant.

Service where  
defendant resides  
out of but carries  
on business  
within  
jurisdiction

12. Service out of Solomon Islands of any writ of summons or other document may be allowed by the court—

Service out of  
jurisdiction

(a) whenever the whole or any part of the subject matter of the suit is land or stock or other property situated within its jurisdiction, or any act, deed, or thing affecting such land, stock or property; or

(b) whenever the contract which is sought to be enforced

or rescinded, dissolved, annulled or otherwise affected in any such suit, or for the breach whereof damages or other relief are or is demanded in such suit, was made or entered into or is to be performed wholly or in part within its jurisdiction; or

(c) whenever it is alleged that there has been a breach within its jurisdiction of any contract wherever made; or

(d) whenever any act or thing sought to be restrained or removed, or for which damages are sought to be recovered, was or is to be done or is situated within its jurisdiction.

Application for leave to serve out of Solomon Islands

**13.** Every application for leave to serve a writ of summons or other document upon a defendant out of Solomon Islands shall be supported by evidence by affidavit or otherwise, showing in what place or country the defendant is or is probably to be found, and the grounds upon which the application is made.

Order to prescribe method of service

**14.** Any order giving leave for service out of Solomon Islands shall prescribe the method of service to be employed and the date of the hearing, and the court may receive an affidavit of such service having been effected as prima facie evidence thereof.

Service in another Province

**15.** Where a writ of summons or other document is required to be served in a Province of Solomon Islands other than that in which the court issuing the writ or other document exercises jurisdiction, the clerk of court from whose office the writ or other document is issued may, if the Magistrate so directs, transmit the same and a copy thereof, together with any other documents and copies thereof, to the clerk of court of that Province for service.

Where service is refused

**16.** Where the officer or person charged with the service of any writ of summons or other document on any person is prevented by the refusal of such person to receive the writ or other document, or by the violence or threats of such person or of any other person acting in concert with him, from personally serving the writ or document, it shall be sufficient service to inform the person to be served of the nature of the writ or document, and to leave the same as near as practicable to such person.

Time for service  
LN 40/1989

**17.—**(1) Every writ of summons shall be served within twelve months from the date of issue thereof and if not served

within such period shall thereafter be of no effect unless renewed as prescribed by paragraph (2).

(2) The court may, if it thinks fit, on application made by the plaintiff not less than seven days before the expiry of the period of twelve months prescribed by paragraph (1) on *ex parte* notice of motion, supported by oral or affidavit evidence showing the reason why service has not been effected, renew a writ of summons for one further period of twelve months; and any writ of summons so renewed and not served within such extended time shall thereafter be of no effect.

18.—(1) Where any party to any suit or matter requires a person to be summoned as a witness before the court in such suit or matter or to produce at the hearing in court any document or thing in his possession or power, the court shall, on application by the party, issue a witness summons:

Witness  
summons  
Appendix A  
Form 4

Provided that unless it appears at the time of such application that there is a reasonable probability that the service of the summons can be effected not less than three days before the return day, the summons shall not be issued except on the express direction of a Magistrate.

(2) The summons shall be served on the witness personally, if possible, or by one of the other methods prescribed in this Order and in any event as soon after the issue of the summons as is reasonably practicable.

(3) The party applying for a witness summons may be required before the issue of the summons and within a period to be fixed by the court, to pay into court such sum of money as appears to a Magistrate to be sufficient to defray the travelling and other expenses of the witness to be summoned in passing to and from the court in which he is required to attend together with one days' attendance; and the sum so paid into court shall be tendered to the witness at the time of the service of the summons, or, if the court so directs, the witness to be summoned may be notified that the sum so paid into court will be paid out to him on his attendance.

## ORDER 9

### *Parties*

1. If any plaintiff, or any defendant is sued, in any representative capacity it shall be expressed on the writ of summons; and

Suit on behalf of  
others

the court may order any of the persons represented to be made parties to the action either in lieu of or in addition to the previously existing parties.

Joint ground of action

2. Where a person has jointly with other persons an alleged ground for instituting a suit, all those other persons shall ordinarily be made parties to the suit:

Provided that where more persons than one have the same interest in one suit, the court may direct that one or more of such persons shall be authorised to sue or to defend in such suit for the benefit of or on behalf of all parties so interested.

Joint and several demand

3. Where a person has a joint and several demand against two or more persons, either as principals, sureties, or partners, it is not necessary for him to bring before the court as parties to the suit concerning that demand all the persons liable thereto, and he may proceed against any one or more of them severally or jointly and severally; and where a defendant claims contribution, indemnity or other remedy or relief over against any third person, he may apply to have such third person made a party to the suit.

Non-joinder or misjoinder of parties

4.—(1) If it appears to the court at or before the hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in, the subject-matter of the suit, or who may be likely to be affected by the result thereof, have not been made parties the court may adjourn the proceedings to a future date to be fixed by the court and direct that such persons shall be made parties to the suit either as plaintiffs or defendants, as the case may be; and in every such case the court shall issue a notice to such persons which shall be served in the manner prescribed in these Rules for the service of a writ of summons or in such other manner as the court may think fit to direct, and on proof of the due service of such notice the person so served, whether he shall have appeared or not, shall be bound by all proceedings in the cause:

Provided that a person so served who fails to appear within the time limited by the notice for his appearance may, at any time before judgment, apply to the court for leave to appear, and such leave may be granted upon such terms if any, as the court may think fit.

(2) The court may, at any stage of the proceedings and on such terms as appear to the court to be just, order that the name of any

party, whether as plaintiff or defendant, improperly joined be struck out.

(3) No suit shall be defeated by reason of non-joinder or misjoinder of parties.

5. Claims by the Government against any person may be brought by the Attorney-General or by any officer authorised by law to prosecute such claims on behalf of the Government or by any person authorised by the Attorney-General either generally or in any particular case to prosecute the claim on behalf of the Government.

Claims by  
Government

6. Any persons claiming or being liable as co-partners may sue or be sued in the name of their respective firms, if any; and any party to an action may, in such case, apply to the court for a statement of the names of the persons who are co-partners in any such firm to be furnished in such manner and be verified on oath or otherwise as the court may direct.

Proceedings by  
or against  
partners

7. In any case in which any writ of summons states two or more distinct causes of action by or against the same parties and in the same rights, the court may, either before or at the hearing, if it appears inexpedient to try the separate causes of action together, order that the trials be had separately, and may make such order as to adjournment or costs as justice requires.

Distinct causes  
of action in one  
writ

8. In any case in which a writ of summons states two or more distinct causes of action but not by or against the same parties or by or against the same parties but not in the same rights, the writ of summons may, on application by any defendant, or by the court of its own motion, be amended or dismissed, as justice may require.

Misjoinder of  
actions

#### ORDER 10

#### *Particulars of Claim*

1.—(1) It shall be sufficient for the plaintiff to state his claim in the writ of summons briefly in a general form, but he may deliver to the clerk of court, at the time of making application for the writ of summons, particulars of his demand in any form which shall give the defendant reasonably sufficient information as to details of his claim.

Particulars of  
claim

(2) Whenever the plaintiff shall deliver such particulars, he

shall also deliver to the clerk of court as many duplicates thereof as there are defendants and particulars shall be served with the writ of summons:

Provided that if the plaintiff is illiterate or in need of assistance the clerk of court may assist him in drawing such particulars for him.

Further particulars

2. The court may, on application of a defendant or of its own motion, order that further and better particulars of any claim be submitted to the court for service upon the defendant.

Judgment not to exceed claim

3. The plaintiff shall not, at the hearing, obtain judgment for any sum exceeding that stated in the particulars of his claim except for subsequent interest and the costs in the cause notwithstanding that the sum claimed in the writ of summons for debt or damages may exceed the sum stated in the particulars.

Amendment of particulars before trial

4. Particulars of claim shall not be amended except by leave of the court, but the court may on any application for leave to amend grant such leave if it appears to the court that the defendant will not be prejudiced by the amendment; and the court may refuse leave or grant the same on such terms as to notice, adjournment or costs as appears to the court to be just.

Amendment of particulars at trial

5. Any variance between the items contained in the particulars and the items proved at the hearing may be amended at the hearing, either at once or on such terms as to notice, adjournment or costs as the court may consider just.

#### ORDER 11

##### *Appointment of Guardian ad litem*

Court may appoint guardians *ad litem* in certain cases

1. Where, on default of a defendant in answering or otherwise defending a suit after service of the writ of summons, it appears to the court that the defendant is an infant, or a person of weak or unsound mind so that he is unable by himself to defend the suit, the court may, if it thinks fit, on the application of the plaintiff or of its own motion, appoint by order some fit person to be guardian *ad litem* of the defendant for the purposes of the suit and by whom the defendant may defend it.

Notice of appointment of guardian *ad litem*

2. Before an order under rule 1 is made the court shall cause such reasonable notice as it thinks fit to be served upon and, so



far as may be, explained to the person in whose interests the guardian is to be appointed.

3. Infants and persons of weak or unsound mind may sue as plaintiffs by their committees or next friends on such terms as to the liability for costs and otherwise of such committees or next friends as the court shall consider just.

Suits by infants and persons of weak mind

4. A guardian *ad litem* of an infant or a person of weak or unsound mind shall not be personally liable for any costs not occasioned by his own negligence or misconduct.

Guardian not liable for costs

5. Where a judgment has been obtained or an order made against any defendant who was at the time an infant or a person of weak or unsound mind without a guardian *ad litem* having been appointed, the court or a Magistrate may set aside the judgment or order and direct a new trial or make such other order as the court or Magistrate may think fit.

Power to set aside judgment where no guardian appointed

#### ORDER 12

##### *Alteration of Parties*

1. Where, after the institution of a suit, any change or transmission of interest occurs in relation to any party thereto, or if any party to the suit dies or becomes incapable of carrying on the suit, or the suit in any other way becomes defective or incapable of being carried on, any person interested may apply to the court for such order as may be necessary for curing the defect or for enabling or compelling proper parties to carry on the proceedings:

On change of interest court may make an order enabling action to proceed

Provided that any person served with such an order may, within such time as the court in the order shall direct, apply to the court to discharge or vary the order.

2. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survives.

Death of a party

3. If there be two or more plaintiffs or defendants and one of them die and if the cause of action survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, as the case may be, the suit shall proceed at the instance of such surviving plaintiff or plaintiffs or against such surviving defendant or defendants.

Cause of action surviving to surviving plaintiffs or defendants

Cause of action surviving to surviving plaintiff and personal representative of deceased plaintiff

4. If there be two or more plaintiffs and one of them dies, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall survive to them and to the personal representative of the deceased plaintiff jointly, the court may, on the application of the personal representative of the deceased plaintiff, enter the name of such representative in the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such personal representative of the deceased plaintiff. If no application shall be made to the court by any person claiming to be the personal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the personal representative of the deceased plaintiff shall, after receipt of notice to appear, be interested in and bound by the judgment given in the suit in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs, unless the court shall see cause otherwise to direct.

Death of sole surviving plaintiff

5. In the case of the death of a sole plaintiff, or sole surviving plaintiff, the court may, on the application of the personal representative of such plaintiff, enter the name of such representative in the place of such plaintiff in the suit and the suit shall thereupon proceed; but if no such application shall be made to the court within what the court may consider a reasonable time by any person claiming to be the personal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent for the court to make an order that the suit shall abate and to award to the defendant the reasonable costs which he may have incurred in defending the suit, such costs to be recoverable from the estate of the deceased sole plaintiff or sole surviving plaintiff, as the case may be; or the court may, if it thinks proper and upon the application of the defendant and upon such terms as to costs as may seem to the court fit, make such order for bringing in the personal representative of the deceased sole or sole surviving plaintiff and for proceeding with the suit in order to reach a final determination of the matters in dispute, as may appear to the court just in all the circumstances of the case.

Dispute as to personal representative

6. If any dispute arises as to who is the personal representative of a deceased plaintiff, the court may either stay the proceedings until the fact has been duly determined in another action or decide, before the hearing of the suit, who shall be admitted to be such representative for the purpose of prosecuting the suit.

7. If there be two or more defendants and one of them dies, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in the case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make an application to the court specifying the name, description and place of residence of any person whom the plaintiff alleges to be the personal representative of such deceased defendant and whom he desires to be made the defendant in his stead; and the court shall thereupon enter the name of such person in the suit in the place of such deceased defendant, and shall issue a summons for him to appear, on a day to be therein specified, to defend the suit; and the case shall thereupon proceed in the same manner as if such person had originally been made a defendant and had been a party to the former proceedings in the suit.

Death of one of several defendants or of sole surviving defendant

8. The bankruptcy of the plaintiff, in any suit which the assignee or trustee might maintain for the benefit of the creditors, shall not be a valid objection to the continuance of the suit unless the assignee or trustee shall decline to continue the suit and to give security for the costs thereof within such reasonable time as the court may order; and if the assignee or trustee neglect or refuse to continue the suit and to give security for the costs within the time limited by the order, the defendant may within twenty-one days after such neglect or refusal, plead the bankruptcy of the plaintiff as a reason for abating the suit and the court shall strike out the suit accordingly.

Bankruptcy of plaintiff

#### ORDER 13

#### *Discontinuance of Suits*

1.—(1) If, before the date fixed for the hearing, the plaintiff wishes to discontinue any suit against all or any of the defendants thereto, or to withdraw any part of his alleged claim, he shall give notice in writing of discontinuance or withdrawal to the Magistrate or the clerk of court and the same shall be served upon every defendant as to whom he desires to discontinue or withdraw. After receipt of such notice, such defendant shall not be entitled to any further costs, with respect to the matter so discontinued or withdrawn, than those incurred up to the receipt of such notice, unless the court shall otherwise order; and such defendant may apply *ex parte* for an order against the plaintiff for the costs incurred before the receipt of such notice and for attending the court to obtain the order. Such

Discontinuance of suit

discontinuance or withdrawal shall not be a defence to any subsequent suit.

Discontinuance  
after date fixed  
for hearing

(2) If, after the date fixed for the hearing, the plaintiff desires to discontinue any suit or to withdraw any part of his alleged claim, or if a defendant desires to discontinue or withdraw a counterclaim or any part thereof, such discontinuance or withdrawal may, in the discretion of the court, be allowed on such terms as to costs and as to any subsequent suit or otherwise as the court may consider just.

Stay of  
subsequent suit

2. If any subsequent suit is instituted before payment of the costs of a discontinued suit for the same or substantially the same cause of action, the court may order a stay of such subsequent suit until the costs of the discontinued suit have been paid.

#### ORDER 14

#### *Place of Trial and Institution of Suits*

Place of trial

1. Subject to any law respecting transfer of suits, the place for trial and the institution of any cause or matter shall be regulated as follows —

(a) all suits arising out of the breach of any contract shall be commenced and determined in the court having jurisdiction over the place in which such contract ought to have been performed, or in which the defendant, or one of the defendants, resides or carries on business;

(b) any suit other than a suit founded on contract may be commenced and determined in the court having jurisdiction over the place in which the defendant, or one of the defendants, resides or carries on business;

(c) where any suit shall have been commenced in the wrong court, and whether or not the defendant shall plead specially in objection to the jurisdiction, the court may —

- (i) order the proceedings to be struck out; or
- (ii) report to the High Court, pursuant to the provisions of section 37 of the Act, the pendency of the proceedings.

## ORDER 15

*Amendments*

1. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the court either of its own motion or upon application by any party to the proceedings.

Clerical mistakes  
and accidental  
omission

2. The court may at any time, and on such terms as to costs or otherwise as the court may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings.

General power to  
amend

## ORDER 16

*Admissions*

1. Any party to a suit may give notice, by his own statement orally or in writing, that he admits the truth of the whole or any part of the claim or demand stated in the writ of summons, or particulars of claim, defence or statement of any other party.

Notice of  
admissions

2. Any party may apply to the court either orally or in writing to give notice to any other party to admit, saving just exceptions, any document or fact.

Notice to admit  
Appendix A.  
Form 5

3. In case of refusal or neglect to admit after notice, the costs of proof of the document or fact shall be paid by the party refusing or neglecting to admit, whatever the results of the suit, unless the court is satisfied that such refusal or neglect to admit was reasonable in all the circumstances.

Cost of refusal to  
make reasonable  
admissions

4. If any defendant shall sign a statement admitting the amount claimed in the writ of summons or any part of such amount, the court, if it is satisfied as to the genuineness of the signature of the person by whom the statement was signed and unless it sees good reason to the contrary, shall, in the case of the whole amount being admitted enter judgment for the plaintiff for that amount or if part of the amount is admitted, and the plaintiff consents to a judgment being entered for such part, enter judgment for such part, but if the plaintiff does not consent to the entry of judgment for the admitted party only, the court shall receive such statement in evidence as an admission without further proof.

Admissions by  
defendants

## ORDER 17

*Settlement of Issues*

No formal  
pleadings

1. The matters in issue in any suit shall not be determined by formal pleadings but by settlement of issues by the court.

Settlement of  
issues

2. At any time before or at the hearing the court may, if it thinks fit, on the application of any party to the suit or of its own motion, proceed to ascertain and determine what are the material questions in controversy between the parties, and reduce such questions to writing and settle them in the form of issues, which issues, when settled, may state questions of law on admitted facts or questions of disputed facts, or questions partly of one kind and partly of the other.

Procedure for  
framing issues

3.— (1) For the purposes of framing issues the court may—

(a) ascertain from each party or from his advocate or other authorised representative, what facts he admits or denies;

(b) orally examine any party or his authorised representative, other than an advocate, appearing or present in the court;

(c) order that any party shall appear in person on a date specified in the order and adjourn the hearing of the matter to such date;

(d) call upon any party to produce all documents in his possession or in his power upon which he intends to rely in support of his case, and if necessary, or expedient, order any party to produce such documents on a date specified in the order and adjourn the hearing of the matter to such date; and

(e) have regard to any allegations made in any particulars of claim, counterclaim or set-off whether formal or informal, in the cause and to the contents of any document produced by any party.

(2) The court may at any time—

(a) adjourn the framing of issues;

(b) amend issues already framed, frame additional issues or strike out issues which appear to be wrongly framed or superfluous, on such terms as to costs, payment of money into court, giving of security or otherwise as the court may think fit.

4. Notwithstanding rule 3 the court, if it thinks fit, may direct the parties to prepare issues for settlement by the court.

Court may direct parties to prepare issues

5. The issues may be settled, without previous notice, at any stage of the proceedings at which all the parties are actually present, or at the hearing, or notice may be given to all the parties to attend on a date and at a place to be specified in the notice for settlement of the issues.

When may issues be settled

## ORDER 18

### *Inquiries and Accounts*

1. In any cause or matter in which all the parties interested and who are not under disability consent thereto, and also, without such consent, in any cause or matter requiring any prolonged examination of documents or accounts or any scientific or local examination which cannot, in the opinion of the court, be conveniently made by the court in the usual manner, the court may, at any time, on such terms as it may think proper, order any question or issue of fact or any question of account arising therein to be investigated or tried before a referee to be agreed between the parties or appointed by the court.

Questions of fact or account may be investigated by referee

2. Where an order has been made under rule 1, the court shall furnish the referee with such part of the record of the proceedings or relevant documents filed with the court and such other information and instructions as the court may consider necessary for his guidance, and shall direct the parties, if necessary, to attend upon the referee during the inquiry or investigation; and the instructions shall specify whether the referee is merely to transmit to the court the record of his inquiry or investigation or also to report his own opinion on the points, or any of them, referred to him.

Instructions to referee

3. The court may, at any stage of the proceedings, direct any necessary inquiry or investigation described in rule 1 to be made or taken, notwithstanding that it may appear that there is some special or further relief sought or some other issue to be tried, as to which it is proper that the cause or matter should proceed in the ordinary manner.

Interim inquiries or accounts

4. The referee may, subject to any directions by the court, hold the inquiry at or adjourn it to any place which he may consider most convenient and may make any inspection or view which he

General powers of referee

may deem expedient for the disposal of the controversy before him:

Provided that, as far as practicable, he shall proceed with the inquiry or investigation on successive days.

Evidence and procedure

5. Subject to any direction of the court ordering the inquiry or investigation, evidence may be taken by a referee and the attendance of witnesses may be enforced by subpoena issued through the court; and every such inquiry or investigation shall be conducted, as nearly as circumstances will admit, in the same manner as a trial before a Magistrate, but not so as to make the tribunal of the referee a public court of justice.

Referee may report questions or facts specially

6. The referee may, before the conclusion of any inquiry or investigation before him or by his report under the reference, submit any question arising therein for the decision of the court, or may state any facts specially.

Effect of report by referee

7. The record of proceedings and the report in writing of the referee shall be received in evidence in the case, unless the court may have reason to be dissatisfied with them, and the court may draw such inferences from the record of proceedings or the report as shall be just.

Powers of the court

8. The court shall have power to require any explanations or reasons from the referee and to remit the cause or matter, or any part thereof, for further inquiry or consideration to the same or any other referee, as often as may be necessary, and shall pass such ultimate judgment or order as may appear to it to be just and proper in the circumstances of the case.

## ORDER 19

### *Appearance of Parties*

Court may permit party to appear by proxy

1. In every cause or matter pending before the court, if it shall appear to the satisfaction of the court that any plaintiff or defendant who may not be represented by an advocate is prevented by some sufficient cause from attending the court in person or requires assistance of some other person at the hearing in the court, the court may in its discretion, permit any other person who shall satisfy the court that he has authority in that behalf to appear for such plaintiff or defendant:

Provided that nothing in this rule shall be construed to



authorise any person other than an advocate to charge any fee for any advice given or service rendered in relation to any such cause or matter.

2. If any person does any act or takes any proceeding in the name of or on behalf of any other person without the lawful authority of such other person and knowing himself not to be so authorised, the court may refer the matter to the High Court to be dealt with as a contempt of court pursuant to the provisions of section 6 of the Act.

Appearance  
without authority

## ORDER 20

### *Arrest of Absconding Defendant*

1. If in any suit for an amount of twenty dollars or upwards, a defendant is about to leave Solomon Islands, or has disposed of or removed from Solomon Islands his property, or any part thereof, the plaintiff, either at the institution of the suit or at any time thereafter until final judgment, may apply to the court for an order against the defendant that security be taken for his appearance to answer any judgment which may be passed against him in the suit.

Defendant  
leaving Solomon  
Islands or  
removing  
property

2. If the court, after making such investigation as it may consider necessary, shall be of opinion that there is cause for believing that the defendant is about to leave Solomon Islands, or that he has disposed of or removed from Solomon Islands his property, or part thereof, and that, in either case, by reason thereof the execution of any decree which may be made against him is likely to be obstructed or delayed, the court may issue its warrant to bring the defendant before the court to show cause, if any there be, why he should not give good and sufficient bail for his appearance.

Warrant to arrest  
defendant  
Appendix A  
Form 6

3. If the defendant shall fail to show cause as aforesaid in rule 2, the court shall order him to give bail, with or without sureties, for his appearance at any time when called upon while the suit is pending and until execution or satisfaction of any decree which may be passed against him in the suit; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money to the plaintiff in respect of which they shall stand bound as surety not exceeding the amount of any judgment, with costs, which may be given against such defendant.

Bail for  
appearance  
Appendix A  
Form 7

4. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient

Deposit in lieu of  
bail

to answer the claim against him, with costs of the suit, the court shall accept the deposit.

Committal in default

5. In the event of the defendant neither finding security nor offering a sufficient deposit, he may be committed to custody until the determination of the suit, or, if judgment be given against the defendant, until the execution or satisfaction of the decree, if the court shall so order:

Provided that the court may at any time, upon reasonable cause being shown and upon such terms as to security or otherwise as may seem just, order the release of the defendant.

Costs of executing warrant

6. The court may, before issuing any warrant under this Order require the plaintiff to deposit in court such sum as the court may think fit to defray the costs of executing the warrant and of bringing the defendant before the court.

Cost of subsistence of person arrested

7. The expenses incurred for the subsistence in prison of any person arrested and committed under this Order shall be paid in advance through the court by the plaintiff in the action; and the court shall determine whatever allowance it shall think fit for the reasonable and sufficient subsistence of such person having regard to his status and way of life; and any amount so disbursed may be recovered by the plaintiff in the action as costs in the cause, if the court shall specifically so order.

## ORDER 21

### *Interim Attachment of Property*

When interim attachment may be ordered

1. If the defendant, in any suit for an amount or value of twenty dollars or upwards, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property, or any part thereof, or to remove any such property from Solomon Islands, the plaintiff may apply to the court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree which may be made against him in the suit, and, on his failing to give such security, to direct that any property, movable or immovable belonging to the defendant, shall be attached until further order of the court.

Application for attachment

2. Every application referred to in rule 1 shall contain particulars of the property to be attached and the estimated value thereof so far as the plaintiff can reasonably ascertain the same and shall be supported by oral or affidavit evidence.

3. If the court, after making such investigation as it may consider necessary, is satisfied that the defendant is about to dispose of or remove from Solomon Islands his property with intention to obstruct or delay the execution of any decree which may be made against him, the court may order the defendant, within a time to be specified in the order, either to furnish security, in such sum as shall be specified in the order, or to produce and place at the disposal of the court, when required, such property, or the value of the same, or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security; and the court may also, in the order, direct the attachment until further order of the whole or any part of the property specified in the application.

Order for attachment

4. If the defendant fails to show cause or to furnish the required security within the time specified in the order, the court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order; but if the defendant shows cause or furnishes the required security, and the property specified in the application, or any part of it, shall already have been attached, the court shall order the attachment to be withdrawn.

Failure to show cause or to give security  
Appendix A  
Form 8

5. The attachment of any property under this Order shall not affect the rights of persons not being parties to the suit, and, in the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner prescribed in Order 33 relating to interpleader proceedings.

Rights of third parties not to be affected

6. In all cases of attachment before judgment, the court shall, at any time, remove the attachment on the defendant furnishing security as hereinbefore required together with security for the costs of the attachment.

Removal of attachment

## ORDER 22

### *Preservation of Disputed Property*

1. In any suit in which it is shown, to the satisfaction of the court, that any property which is in dispute in the suit is in danger of being wasted, damaged or alienated by any party to the suit, the court may issue an injunction to such party commanding him to refrain from doing the particular act complained of, or may give such order for the purpose of preventing him from

Orders to stay waste, damage or alienation

wasting, damaging or alienating the property as the court may think necessary.

Appointment of receiver

2. In all cases in which it may appear to the court necessary for the preservation or better management or custody of any property in dispute in a suit, the court may appoint a receiver or manager of such property, and, if need be, remove the person in whose possession or custody the property may be from the possession or custody thereof, and commit the same to the custody of the receiver or manager, and the court may authorise the receiver or manager to do all things and exercise all powers required for the proper management, preservation or improvement of the property and collection of the rents and profits thereof, including the application and disposal of such rents and profits, as the court may consider necessary.

Orders for sale of perishable goods

3. The court may, on the application of any party to a suit, or of its own motion in any suit, order the sale, in such manner and on such terms as the court may think fit, of any goods, wares or merchandise, the right to which is in dispute in the suit, which may be of a perishable nature or be likely to depreciate from keeping, or which, for any other just and sufficient reason, the court may think it desirable to have sold at once.

Orders to restrain breaches of contract or commission of tort

4. In any suit for restraining the defendant from committing any breach of contract or other injury, and whether the same be accompanied by a claim for damages or not, the plaintiff may, at any time after the commencement of the suit and whether before or after judgment, apply to the court for an injunction to restrain the defendant from the repetition or the continuance of the breach of contract or the wrongful act complained of, or from committing any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right, and such injunction may be granted by the court on such terms as to the duration of the injunction, keeping of account, giving of security or otherwise as the court shall consider reasonable and just:

Provided that any order for an injunction may be discharged, varied or set aside by the court on application by any party dissatisfied with such order.

Notice of application

5. The court may in every case, before making an order or appointment under this Order, direct that such reasonable notice of the application shall be given to the opposite party as the court shall think fit.

## ORDER 23

*Equitable Relief, Counterclaim, Set-off*

1. A defendant in an action may set off, or may set up by way of counterclaim against the claim of the plaintiff, any right or claim, whether such set-off or counterclaim sound in damages or not, and such set-off or counterclaim shall have the same effect as a statement of claim in a cross action so as to enable the court to pronounce a final judgment in the same action both on the original and on the cross claim:

Counterclaim  
and set-off

Provided that if in the opinion of the court the set-off or counterclaim cannot conveniently be disposed of in the pending action or otherwise ought not to be allowed, the court may refuse permission to the defendant to avail himself thereof, and the court shall refuse such permission in respect of any counterclaim for an amount or value exceeding the jurisdiction in that respect of the court.

2.—(1) No defendant shall be allowed to avail himself of any set-off or counterclaim unless he shall have filed with the Magistrate or the clerk of court, as the case may be, four days before the return day, a notice in original and as many copies as there are plaintiffs in the suit, stating his name and address and a concise statement of the grounds of such set-off or counterclaim and shall have paid the same fees as would be payable if he were claiming by writ of summons:

Notice of  
counterclaim and  
set-off

Provided that the court may, in its discretion and on such terms as to adjournment or otherwise as may appear to it to be just, allow a defendant to avail himself of a set-off or counterclaim notwithstanding that such notice has not been duly filed within the time specified above.

(2) Upon receipt of notice of set-off or counterclaim and upon payment of the prescribed fees, the magistrate or the clerk of court shall cause a duplicate of such notice to be served upon the plaintiff or each of them.

(3) The provisions of Order 9, relating to particulars of claim, shall apply, as far as they are applicable to every set-off or counterclaim.

3. Where in any action a counterclaim is established as a defence against the plaintiff's claim, the court may, if the balance is in favour of the defendant, give judgment for the defendant for

Defendant may  
have judgment  
for balance due  
on counterclaim

such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

Payment into court where partial set-off

4. The court may, if it thinks fit, order that a defence of partial set-off shall be accompanied by payment into court of the amount to which, on the defendant's own showing, the plaintiff is entitled unless the plaintiff's claim is resisted on some other ground of defence; and, in default of such payment the defendant shall be liable to pay the costs of the suit even though he may succeed in his defence to the extent of the set-off on which he relies.

#### ORDER 24

##### *Tender*

Payment into court of amount tendered

1. A defence of tender must be accompanied by payment into court of the amount alleged to have been tendered.

#### ORDER 25

##### *Discovery and Production of Documents*

Discovery of documents

1. Upon the application of any party to a cause, or of its own motion, the court may order any party thereto to appear and make discovery on oath or to file an affidavit as to the documents which are or which have been in his possession or power relating to any matter in question in the suit.

Production of documents  
Appendix A  
Form 9

2. The court may, at any time during the pendency of a cause or other proceedings, order the production by any party thereto of any document in his possession or power relating to any matter in question in the suit or proceedings, and the court may deal with such documents, when produced, as shall appear to the court to be just.

Inspection of documents

3. The court may in its discretion on the application of any party to a cause or other proceeding compel by order any other party to allow the applicant to inspect all or any documents in the custody or control of such other party relative to the suit, and, if necessary to take copies of the same.

Failure to comply with order for discovery, production or inspection

4. If any party to a cause fails to comply with the terms of any order for discovery, production or inspection of any document he shall be liable to attachment; and he shall also, if a plaintiff, be

liable to have his action dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out and to be placed in the same position as if he had not defended the action.

#### ORDER 26

##### *Motions and Orders to Show Cause*

1. At any stage of any cause or other proceeding the court may entertain interlocutory applications which may be made either *ex parte* or after notice given to the other parties to be affected thereby; and every such application may be made either orally before the Magistrate or in writing, and may, if the application is based upon facts to be stated, be supported by evidence thereof given either orally or by affidavit.

Motions

2. Every order to show cause shall specify the day upon which cause is to be shown, to be called the return day to the order, and shall not, unless the court otherwise directs, ordinarily be less than three days after service.

Orders to show cause

3. Upon the hearing of any order to show cause the court may discharge the order or make the order absolute, or adjourn the consideration thereof, or permit further evidence to be produced either for or against the order, and may modify the terms of the order so as to meet the merits of the case.

General powers as to orders

#### ORDER 27

##### *Postponement of Hearing*

1. The court may upon the application of any party to a cause order that the hearing thereof be postponed if the court is satisfied that the postponement is likely to have the effect of better ensuring the hearing and determination of the issues between the parties on the merits and that the application is not made for the purpose of mere delay; and any postponement may be granted subject to such terms as to costs or otherwise as the court may consider just.

Postponement of hearing

2. Where an application is made under rule 1 on the ground of the absence of a witness, before granting the application the court shall require the applicant to satisfy it that the evidence of such witness is material and that the witness is likely to be available within a reasonable time.

Absence of witness

## ORDER 28

*Non-attendance of Parties at Hearing*

Non-appearance  
of both parties

1. Where a civil cause or matter has been called for hearing and neither party appears, the court may either strike out the proceedings, or, if the court has reason to believe that the parties have not settled out of court and have failed or been unable to appear for some other reason, set down the cause or matter for some other date and, without requiring the payment of further fee, send notice to the parties of the fresh date of hearing in any manner the court thinks fit.

Non-appearance  
of plaintiff

2. If the plaintiff does not appear when called, but the defendant or any one of them does the court shall, unless it sees good reason to the contrary, strike out the proceedings (except as to any counterclaim by the defendant), and make such order as to costs in favour of the defendant appearing as seems to it to be just:

Provided that if the defendant admits the cause of action to the full amount claimed, the court may in its discretion give judgment in favour of the plaintiff as if the plaintiff had appeared and the defendant had admitted his liability.

Non-attendance  
of defendant

3. If the plaintiff appears and the defendant does not appear when called and has not in writing previously explained to the court good reason for his absence, the court may, upon proof of service of the writ of summons proceed to hear the cause and give judgment upon the evidence adduced by the plaintiff, or may postpone the hearing of the cause and direct notice to be given to the defendant accordingly.

Counterclaim  
where plaintiff  
does not appear

4. Where the defendant to a cause which has been struck out under rule 2 has a counterclaim, the court may, upon proof of service upon the plaintiff of notice of the counterclaim, proceed to hear the counterclaim and give judgment upon the evidence adduced by the defendant, or may postpone the hearing of the counterclaim and direct notice of the postponement to be given to the plaintiff accordingly.

Setting aside  
judgment entered  
in absence of a  
party

5. Any judgment obtained against any party in the absence of that party may, on sufficient cause being shown, be set aside by the court upon such terms as to costs or otherwise as it may think fit.



## ORDER 29

*Proceedings at Hearing*

1.— (1) Unless issues have been settled in accordance with the provisions of Order 17 before the date fixed for the hearing of any cause, the hearing shall commence by the plaintiff stating his case and the defendant shall then be called upon immediately to reply thereto stating whether he accepts liability or denies it and if he denies it the grounds upon which he does so.

Commencement  
of hearing

(2) If issues have been previously framed, the hearing shall commence by the plaintiff stating his case and thereafter immediately producing his evidence.

2. If the defendant admits liability, judgment may be entered against him forthwith.

If liability  
admitted

3. If the defendant denies liability, the plaintiff shall be called upon to produce his evidence and examine his witnesses.

If liability  
denied,  
plaintiff's case

4. The defendant shall have the right to cross-examine any witness and the plaintiff may then re-examine the witness with regard to any matter arising out of the cross-examination.

Plaintiff's  
witnesses

5. At the conclusion of the plaintiff's evidence —

Defendant's case

(a) if the defendant decides to produce no evidence, oral or documentary, the plaintiff shall be at liberty to sum up his case; and thereafter the defendant shall be entitled to state his defence and reply generally;

(b) if the defendant decides to produce evidence, the plaintiff shall have no right to address the court at the conclusion of his own case, but the defendant shall then state his defence and produce his evidence. At the conclusion of the defendant's evidence, the defendant shall be entitled to sum up his defence and comment upon the evidence generally; and thereafter the plaintiff shall be entitled to reply generally upon the whole case.

6. Any witness called by the defendant shall be subject to cross-examination by the plaintiff and may be re-examined by the defendant in respect to any matter arising out of the cross-examination.

Defendant's  
witnesses

7. Where by reason of the nature of the issues between the

Right to begin

parties the burden of proof rests upon the defendant, he shall, if the court so decides, have the right to begin; and in any such case rules 3, 4, 5 and 6 shall be applied as though the word "defendant" were substituted therein for the word "plaintiff" and the word "plaintiff" substituted for the word "defendant".

Documentary evidence

**8.** Documentary evidence shall be put in and read, or, if all parties to the action consent thereto, a note of such consent being made on the trial record it may be taken as read.

Marking of documents.

**9.** Every document put in evidence shall be marked by the Magistrate or the clerk of court and shall be retained by the court until final judgment in the action and shall thereafter be returned to the party who put it in or from whose possession or power it came, unless for sufficient reason it is impounded by order of the court.

Disallowance of vexatious cross-examination

**10.** The court may in all cases disallow any question put in cross-examination to any party or other witness which may appear to it to be vexatious or not relevant to the matters in issue before the court.

#### ORDER 30

#### *Judgment*

Delivery of judgment

**1.** The decision or judgment in any suit shall ordinarily be pronounced orally in open court:

Provided that the court may in its discretion, if the judgment is long or complex or otherwise difficult to deliver in simple language, hand down to each party a written copy thereof instead of pronouncing it verbatim.

Notice when judgment reserved

**2.** If the court reserves judgment at the hearing, parties to the suit shall be served with notice to attend and hear judgment, unless the court, at the hearing, informs the parties of the day upon which it intends to deliver judgment, in which case there need be no further notice.

When parties deemed to have notice of judgment

**3.** All parties shall be deemed to have notice of the decision or judgment if it is pronounced at the hearing; and all parties served with notice to attend and hear judgment shall be deemed to have notice of the judgment when it is pronounced, notwithstanding that any party may have failed to appear to the notice.

4. A minute of every judgment whether final or interlocutory shall be made on the trial record and every such minute shall be a decree of the court and shall have the full force and effect of a formal decree; but the court may in addition to such minute, upon the application of any party or of its own motion, cause a formal decree to be drawn up in any suit and delivered to the parties therein.

Minute of judgment and effect thereof  
Appendix A  
Form 10

5. If the defendant shall have been allowed to set off any demand or counterclaim against the claim of the plaintiff, the minute of the judgment shall state what amount, if any, is due to the defendant and the judgment with respect to any sum awarded to him shall have the same effect and be subject to the same rules as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

Where set-off or counterclaim is allowed

6. A person directed by any decree or order to pay money or to do any other act is bound to obey the decree or order without any further demand for payment or performance, and, if no time is expressed in such decree or order for the payment or performance directed, the defendant shall be bound to make payment or effect performance immediately after the decree or order has been made, unless the court shall by some subsequent order enlarge the time.

Obedience to decree

7. The court may, either upon the application of any party to any suit or of its own motion, direct a time within which payment must be made or performance be effected and may by any subsequent order enlarge or cancel or vary such time.

Court may direct time for payment or performance

8. Where a judgment or order is for the payment of a sum of money, the court may in its discretion order interest not exceeding five per cent per annum to be paid thereon until date of payment.

Interest

9. Where any judgment or order directs payment of money the court may, either upon the application of any party to the suit, or, for sufficient reason, of its own motion direct that payment shall be made by instalments, with or without interest as limited in rule 8, and any such order may be made at the time of giving judgment or at any time thereafter and may be rescinded or varied for cause shown at any time; and also any such order may direct that upon failure of any instalment the whole amount remaining unpaid shall forthwith become due.

Payment by instalments

Judgment by consent

**10.** If the plaintiff and the defendant agree as to the terms and conditions on which judgment shall be entered, the court shall, unless it sees good reason to the contrary to be entered in the record, enter judgment on the terms and conditions so agreed.

Setting aside judgments by default

**11.** Any judgment or order given by default of either party to any suit may be set aside by the court or a Magistrate upon such terms as to costs or otherwise as the court or Magistrate may think fit.

### ORDER 31

#### *Costs*

Costs

**1.** Under the denomination of costs is included the whole of the expenses necessarily incurred by either party to any cause or matter, and in enforcing the decree or order made therein, including the expenses of summoning and of the attendance of the parties and witnesses and of obtaining copies of documents, the fees of the court and the remuneration of referees.

Determination of costs

**2.** All questions of costs shall be summarily determined by the court:

Provided that if any party to a suit is dissatisfied with the direction of the Magistrate as to the assessment or apportionment of any costs or any items thereof he may appeal to the Registrar of the High Court or to a Judge of that Court and the Registrar or the Judge shall, either with or without hearing the parties in argument thereon in chambers, make such order as to the assessment or apportionment of the costs as may be just.

Costs in discretion of courts

**3.** Subject to the proviso to rule 2, the costs of every cause or matter and of each particular proceeding therein shall be in the discretion of the court; and the court may award or apportion costs in any manner it may consider just:

Provided that except for sufficient cause the court shall not order the successful party to any suit to pay the whole of the costs of the suit.

Security for costs

**4.—(1)** Where a plaintiff does not or does not ordinarily live in Solomon Islands, or is about to leave Solomon Islands, the court may direct, either of its own motion or on the application of any defendant to the suit, that the plaintiff shall pay into court or furnish security in such sum as the court considers sufficient

to cover the costs in the action, and such direction may be given at the commencement of the proceedings or at any stage thereof.

(2) If the plaintiff fails to comply with any direction given under paragraph (1), the court may stay the proceedings until the direction has been complied with.

5. The court may order costs to be paid out of any fund or property to which any cause or matter relates.

Costs out of fund of suit

6. In taxation of costs between party and party nothing shall be allowed in respect of fees paid to the court beyond what was necessary having regard to the amount recovered on the judgment.

Taxation

7. A folio shall comprise seventy-two words, and where figures or numbers appear, every figure or whole number, as the case may be, shall count as one word.

Folio to be 72 words

8. Where upon the trial of any cause or matter it appears that such cause or matter cannot be proceeded with by reason of any advocate engaged by any party thereto having neglected to appear personally or by some proper person on his behalf, or having omitted to produce any document necessary for the use of the court and which ought to have been produced, such advocate may be ordered personally to pay the costs incurred by such failure, or such part of such costs, as the court may think fit.

Liability of advocate

### ORDER 32

#### *Enforcement of Orders*

1. Any order of the court made in any cause or matter may be enforced in the same manner as a decree to the same effect.

Enforcement of orders generally

2. Any interlocutory order may be enforced by any of the methods applicable thereto by which a final order is enforceable.

Enforcement of interlocutory orders

3. Without prejudice to the generality of rule 2, interlocutory orders may be enforced according to the following provisions —

Stay of proceedings and judgment by default

(a) if a plaintiff in a suit makes default or fails to fulfil any interlocutory order, the court may, if it thinks fit, stay further proceedings in the suit until the order is complied with, or may give a judgment of non-suit against such plaintiff with or without liberty to bring a fresh suit on the

same grounds of action, or may make such other order and on such terms and conditions as to costs or otherwise as the court may think fit;

(b) if a defendant in any suit makes such default or failure, the court may give judgment by default against such defendant, or make such other order and upon such terms and conditions as to costs or otherwise as the court may think fit:

Provided that any such judgment by default, either against a plaintiff or a defendant, may be set aside by the court, upon such terms as to costs or otherwise as the court may think just.

### ORDER 33

#### *Interpleader*

Relief by  
interpleader

1. Where any person (in this Order called the applicant) is under a liability for any debt or other thing in action or any money or goods for or in respect of which adverse claims have been made upon him by two or more claimants he may apply to the court for relief by way of interpleader.

Procedure  
Appendix A  
Form 11

2. Whether or not a writ of summons has been served upon the applicant in respect of any liability mentioned in rule 1, the applicant may at any time apply either orally or in writing to the court stating the particulars of the claims made, or likely to be made, upon him and the court shall, upon payment of the prescribed fee, summon the claimants or likely claimants, as the case may be, before it, and whether the applicant is present or not, shall hear and determine the issue between the claimants and make such order as to the disposal of the liability upon the applicant as the court shall think fit.

Magistrate may  
order subject-  
matter to be  
brought into  
court

3. A Magistrate may, before or after the issue of an interpleader summons to any claimants, direct that the applicant shall bring the subject-matter into court or dispose of it in such manner as the Magistrate thinks fit pending the determination of the claims thereto.

Costs

4. In any case of interpleader the court shall make such order as to costs as the court shall consider just.

## ORDER 34

*Execution*

1. Any party in whose favour a judgment of the court is given for the payment of money may apply orally or in writing to the court for execution of the judgment if it is not satisfied.

Execution

2. The process for the execution of any judgment shall be by writ of execution issued under the hand of the Magistrate of the court in which the judgment was given and shall be addressed to the sheriff who shall be empowered to levy by distress and sale of the personal property of the person against whom the judgment was given (in this Order referred to as the judgment debtor) such sum as shall be specified in the writ, together with the costs of the execution, and all police officers shall, if so required, aid in the execution.

Writ of  
execution  
Appendix A  
Form 12

3. All the personal property of a judgment debtor whether held in his own name or by another person in trust for him or on his behalf (except the wearing apparel and bedding of himself and his family and the tools and implements of his trade, if any, to the value of twenty dollars) is liable to attachment and sale in execution of a decree or order.

Property liable to  
execution

4. A writ of execution shall not be issued until fourteen days after the date of the decree or order:

Fourteen days  
grace after  
judgment

Provided that for special reason to be noted on the record of execution and in its discretion the court may order immediate execution in any particular case.

5. No goods seized in execution shall be sold until the expiration of five days after the seizure, unless such goods are perishable or the judgment debtor requests an earlier sale; and where the goods are estimated to be of a value of more than forty dollars, sale shall be by way of public auction after such advertisement as the court shall direct:

Procedure on  
execution

Provided that where the nature of any property to be sold is such that in the opinion of the court a better price can be obtained by sale by private treaty than by public auction the court may waive the requirement for public auction and authorise sale by private treaty and the reason for waiving such requirement shall be noted on record of execution.

Payment before sale

6. If the judgment debtor shall before actual sale pay or tender to the court or to the sheriff or his agent the amount specified in the writ or so much thereof as the person entitled thereto (in this Order referred to as the judgment creditor) shall agree to accept in full discharge, together with the costs of the execution, the execution shall be superseded and the property discharged.

Judgment summons for commitment

7.—(1) No order for commitment of any judgment debtor under paragraph (g) of subsection (1) of section 19 of the Act shall be made unless a summons (in this Order referred to as a judgment summons) to appear before the court and be examined on oath has been personally served upon the judgment debtor; and no judgment summons shall be served less than four days before the date fixed for the hearing thereof.

(2) A judgment summons shall be in the form of a writ of summons, but endorsed requiring the judgment debtor to appear on the return day of the summons to show cause why he should not be committed to prison for failure to pay the sum of the original judgment debt together with the costs of the judgment summons.

Execution against two or more judgment debtors

8. Where a decree or order has been made against two or more judgment debtors the judgment creditor may apply for execution against all or any of them.

Execution against firm etc

9.—(1) Where the judgment debtor is a firm or a person carrying on business not in his own name and the judgment creditor applies for a judgment summons to issue against any person whom he alleges to be liable under the judgment or order to be executed, as a partner or the sole member of the firm or as the person carrying on business in a name other than his own, the judgment creditor shall, before the judgment summons is issued, satisfy the Magistrate on oath or by affidavit that the person against whom the judgment summons is sought is the person liable under the judgment or order; and that person shall be served with a copy of such evidence or affidavit together with the judgment summons.

(2) If on the date fixed for the hearing of the judgment summons such person denies his liability, the court may decide the question on the evidence then before it or may order the question to be tried and determined in an action to be commenced by writ of summons in the ordinary way.

Evidence as to means

10. Witnesses may be called to prove the means of a judgment debtor in the same manner as witnesses may be called or



summoned to give evidence at the hearing of an action, and their expenses may be allowed as costs in the execution.

11. The hearing of a judgment summons may, with the leave of the court, be adjourned from time to time.

Adjournments

12. Where a judgment creditor at whose instance a judgment summons is issued, or a judgment debtor summoned to appear by judgment summons, does not reside within the jurisdiction of the court in which the judgment summons is to be heard, he may forward to the court from which the summons issued an affidavit setting forth any facts which he may wish to be before the court prior to any order being made on the summons; and the court may, if it thinks fit, on the hearing of the summons admit the affidavit as evidence of the person by whom the same is made.

Evidence by affidavit

13.—(1) Where upon the return day of a judgment summons, the judgment debtor satisfies the Magistrate that a receiving order has been made for the protection of his estate, or that he has been adjudged bankrupt, or that a composition order has been made against him, and that the debt was provable therein, no order of commitment shall be made.

Provisions if receiving order has been made

(2) Where an order of commitment has been made and the Magistrate who made the order shall thereafter be satisfied that the judgment debtor has had a receiving order made against him, or that he has been adjudged bankrupt or that a composition order has been made against him, and that the debt in respect to which the order was made was provable therein, if the committal order has not yet been executed, it shall be cancelled and if it has been executed the Magistrate shall order the judgment debtor to be discharged.

14.—(1) On the hearing of a judgment summons, the Magistrate, if he is of the opinion that an order of commitment ought not to be made, may refuse to make the order, or may make a fresh order for payment of the amount remaining due and unpaid under the judgment or order, either at a specified time or by installments.

Order on judgment summons

(2) If an order of commitment is made, the Magistrate may direct that the execution of such order be suspended to enable the judgment debtor to pay the amount in respect of which the order is made, either by installments or otherwise; and when such order is made, notice thereof shall be sent to the judgment debtor unless he is present in court when such direction is given.

Appendix A  
Form 13

(3) The Magistrate may from time to time upon the application of either party and after reasonable notice being given to the other party of the time and place at which the application will be heard, vary the amount of any instalments ordered to be paid by such amount as will, in the Magistrate's opinion, meet the ability of the judgment debtor to pay the same.

(4) Subject to the provisions of rule 15, all payments under an order made upon a judgment summons or an order of commitment shall be paid into court.

(5) If no order for commitment and no fresh order for payment is made on the hearing of the judgment summons, but the Magistrate considers that the judgment creditor was justified in applying for the judgment summons, the Magistrate may, instead of dismissing the summons, order that it shall stand adjourned.

(6) An order for commitment shall be executed by the sheriff or a bailiff or a police officer.

Effect of  
payment of  
amount endorsed  
on commitment  
order

15. If at any time after the issue of a commitment order, the amount endorsed on the order is paid into the court which issued the order, to the sheriff, or, if the judgment debtor has been delivered into the custody of the officer-in-charge of any prison, to that officer, the commitment order shall cease to have effect and the court, the sheriff or the officer-in-charge of the prison, as the case may be, shall discharge the judgment debtor forthwith; and if the amount has been paid to the sheriff or the officer-in-charge of the prison, the sheriff or that officer shall forthwith pay the amount into the court.

Payment out of  
court

16. Upon receipt of any moneys paid into court, the clerk of court, or the Magistrate, shall, subject to the deduction of all proper costs, charges and expenses, pay the same to the judgment creditor.

Judgment  
creditor may  
obtain discharge  
of debtor

17. Upon the judgment creditor lodging with the Magistrate or the clerk of court in which the commitment order was issued a request in writing that the judgment debtor, if in prison, be discharged from custody, the Magistrate or the clerk of court shall notify the officer-in-charge of the prison and that officer shall forthwith cause the judgment debtor to be released.

Writ of  
execution to be  
lodged in court  
upon issue of  
judgment  
summons

18. Upon the issue of a judgment summons against a judgment debtor, the sheriff shall lodge with the court issuing the judgment summons any writ of execution against the property of the debtor which may have been issued in the action, whether as

yet executed or not; but any such writ, if not fully executed, may be re-issued by leave of the Magistrate.

19.—(1) Any judgment creditor may, either before or after any oral examination of the judgment debtor, apply either in person or in writing to the court which issued the judgment or order against the debtor for a summons to be served to obtain payment to him of the amount of any debt due to the judgment debtor from any other person (in this Order referred to as a garnishee) who is indebted to the judgment debtor, or so much thereof as may be sufficient to satisfy the said judgment or order together with the costs of the garnishee proceedings; and if the court upon hearing the evidence or reading the affidavit of the applicant is satisfied as to the likelihood of such amount being due to the judgment debtor from the garnishee, the court may issue a summons accordingly calling upon the garnishee to show cause why he should not pay to the judgment creditor the debt due from him to the judgment debtor, or so much thereof as may satisfy the judgment or order together with the costs aforesaid.

Garnishee  
proceedings  
Appendix A  
Form 14

(2) For the purpose of this rule, the garnishee shall be deemed to be within the jurisdiction of the court notwithstanding that the amount of the debt due from the garnishee to the judgment debtor is in excess of the jurisdiction of the court.

20. Where the garnishee is not, in respect of the debt due to the judgment debtor, within the jurisdiction of the court which issued the judgment or order, the judgment creditor may obtain from the court which issued the judgment or order a certified copy thereof, and may, upon lodging such certified copy with the court within the jurisdiction of which the garnishee resides, make application to that court in the manner provided in rule 19, and that court shall deal with the garnishee proceedings accordingly.

Where garnishee  
resides out of the  
jurisdiction of  
the court

21.—(1) Every garnishee summons shall be served on the garnishee not less than seven days before the return day of the summons, and, when so served, it shall bind in the hands of the garnishee all debts due and payable from him to the judgment debtor to be named in the summons.

Service and  
effect of  
garnishee  
summons

(2) When the garnishee is a firm or a person carrying on business in a name or style other than his own, or is a company or other corporation, the summons may be served in the same manner as a writ of summons is served.

Notice to  
judgment debtor

**22.**— (1) Upon the issue of any garnishee summons, the clerk of court or the Magistrate issuing the same shall cause a copy thereof to be served upon the judgment debtor in respect of whose judgment debt the garnishee summons is issued, together with a notice advising him that if he wishes to show cause why the garnishee should not be ordered to pay the debt due to him over to the judgment creditor, he must appear and show cause, if any there be, upon the return day of the garnishee summons.

(2) The copy and notice referred to in paragraph (1) shall be served on the judgment debtor after service of the garnishee summons has been effected upon the garnishee and not less than four days before the return day of the garnishee summons, and, the court may from time to time postpone the return day of the garnishee summons in order that service of the notice may be effected.

Payment into  
court by  
garnishee

**23.**— (1) The garnishee may at any time before the return day of the summons pay into court the amount admitted by him to be due from him to the judgment debtor, or, if the amount so admitted is more than the amount of the judgment debt, or any part thereof outstanding, together with the fees and costs endorsed on the garnishee summons, such amount as is sufficient to meet such amount, fees and costs.

(2) Upon payment into court of any amount referred to in paragraph (1), the Magistrate or the clerk of court shall cause notice to be given to the judgment creditor and to the judgment debtor, warning the latter that the money paid into court will be ordered to be paid out to the judgment creditor, unless the judgment debtor appears on the return day of the summons and shows cause why such amount should not be so paid out.

(3) If the judgment creditor elects to accept the amount paid into court in satisfaction of his claim against the garnishee, he shall send or give notice in writing of his acceptance to the court and the court shall notify the garnishee accordingly, and thereupon all further proceedings against the garnishee shall abate and the judgment creditor shall not be liable for any costs incurred by the garnishee after receipt of such notice.

(4) If the payment into court is made by the garnishee four days before the return day of the garnishee summons, the garnishee shall not be liable for any further costs incurred by the judgment creditor; but if he pays into court less than four days before the said return day, the court may in its discretion order the garnishee to pay such fees and costs, beyond the fees and

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costs, if any, paid into court by the garnishee, as the judgment creditor may have properly incurred for work done before the receipt of the notice of the payment into court and in attending the court to obtain the order for the same.

(5) Where the judgment creditor has not given notice of acceptance in accordance with paragraph (3) he may, nevertheless, accept the money paid into court at any time before the hearing of the garnishee summons, but in such case he shall be liable for any costs which may have been reasonably incurred by the garnishee since the date of payment into court and which are allowed by the court.

(6) In default of acceptance by the judgment creditor, the proceedings against the garnishee may proceed.

**24.** Money paid into court by a garnishee and accepted by the judgment creditor shall, on application being made by the judgment creditor upon the return day of the garnishee summons be ordered to be paid out to him:

Payment out of  
court of money  
paid in by  
garnishee

Provided that —

(a) before such money is paid out to the judgment creditor, the court shall satisfy itself by evidence on oath or affidavit or otherwise that the judgment creditor has not received payment of the amount payable under the judgment or order from any other source and has not obtained an order for the payment of such amount under any other garnishee proceedings; and if it appears that the judgment creditor has received payment of such amount, or any part thereof, from any other source or has received an order for payment thereof in any other garnishee proceedings, so much only of the money paid into court shall be paid out to him as will, with the amount so received, or for payment whereof an order has been obtained, make up the full amount of the judgment debt together with any fees and costs allowed to the judgment creditor in the garnishee proceedings; and the balance of the money paid into court shall be dealt with as the court shall direct;

(b) if the judgment debtor appears and shows cause why the money should not be paid out to the judgment creditor, the court may make such order as to the money paid into court, and as to costs, as the court may think just;

(c) if the judgment debtor alleges, or it is made to appear to the court, that the money paid into the court belongs to or is claimed by some third person, or that any third person

has, or claims to have, a lien or charge on it, the court may adjourn the proceedings and summon such third person to appear and state the nature and particulars of his claim; and may there and then dispose of the issue or direct that the issue be tried and determined in a fresh action as between such third person and the judgment creditor; and pending the determination of that action may stay further proceedings in garnishee;

(d) if the judgment creditor does not intend to apply for an order against the garnishee for payment of any further costs, and he obtains the consent in writing of the judgment debtor he may apply to the court for the money in court to be paid out to him before the return day of the garnishee summons, and the court may direct that the money be paid out accordingly;

(e) the costs of any application for payment out made under this rule, including the costs of any affidavit under paragraph (a), or of obtaining any consent under paragraph (d) may be allowed as costs in the garnishee proceedings, and may be retained as costs in the garnishee proceedings by the judgment creditor out of the money recovered by him in the garnishee proceedings;

(f) no hearing fee shall be payable on any application for payment out of money paid into court by a garnishee, unless the judgment debtor appears and shows cause, in which case the hearing fee shall be payable by the judgment debtor on the amount paid into court, or unless the judgment debtor alleges, or it is otherwise made to appear to the court, that the money paid into court belongs to or is claimed by a third person or that a third person has a lien or charge thereon, and the court proceeds to hear and determine the issue, in which case, if the third person appears, a hearing fee shall be payable by that person on so much of the amount paid into court as is claimed by him.

25. If the garnishee does not pay into court any amount admitted by him to be due to the judgment debtor or so much, together with costs, as will satisfy the judgment or order, the court shall —

(a) if the garnishee does not appear to the garnishee summons, give judgment in default against the garnishee; or

(b) if the garnishee does appear to the garnishee

Proceedings on  
return day of  
garnishee  
summons

summons and disputes his liability, hear and determine the issue as to his liability to the judgment debtor, or if the court thinks it expedient, direct that the issue as to liability as between the garnishee and the judgment debtor shall be tried or determined in any manner in which an issue or question in an action may be tried and determined.

26. Where the court in which the garnishee is sued is not the court in which the judgment or order was given or made upon which he is sued, the Magistrate or clerk of court of the first-mentioned court shall send forthwith a certificate of the order of that court to the court in which the judgment or order was given or made, and shall also from time to time send notice of any payment made on, before or after the return day of the garnishee summons.

Certificate where garnishee is sued in court other than the court in which judgment obtained

27. Payment made by or execution levied upon the garnishee, under any proceedings under this Order, shall be a valid discharge to the garnishee, as against the judgment debtor, to the amount paid or levied (inclusive of any amount allowed to the garnishee for costs and which he is by the Rules, or by order of the court allowed to deduct from the amount due from him to the judgment debtor) although such proceedings may be set aside or the judgment or order reversed.

Payment by or execution levied on garnishee a discharge against debtor

28. The costs of any application for an attachment of debts, and of any proceedings arising from or incidental to such application, shall be in the discretion of the court; and any costs which are allowed to the judgment creditor which are not ordered to be paid by the garnishee personally shall, unless the court otherwise directs, be taxed and retained by the judgment creditor out of the money recovered by him in the garnishee proceedings, in priority to the amount due under the judgment or order obtained against the judgment debtor.

Costs

29. In proceedings to obtain an attachment of debts the Magistrate may, in his discretion, refuse to intervene where, from the smallness of the amount to be recovered or of the debt sought to be attached, or otherwise, the remedy sought would be worthless or vexatious or would, in the opinion of the court, cause undue hardship to the judgment debtor.

Magistrate may refuse to intervene

30.—(1) Where in the process of any execution pursuant to the provisions of this Order a commitment order is issued against a judgment debtor the judgment creditor shall pay into court in

Costs of subsistence of judgment debtor on commitment

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advance of the issue of the order, and from time to time thereafter, such sum as the court shall think fit to cover the reasonable and sufficient subsistence of the judgment debtor having regard to his status and way of life during the period of commitment.

(2) Such sum or sums shall be disbursed through the court in the form of a daily allowance to be fixed by the court for the subsistence of the judgment debtor during the period of his commitment.

(3) Any sum so disbursed may be recovered, in the discretion of the court, by the judgment creditor as costs in the execution.

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APPENDIX A  
(0. 2, r. 2)

L.N. 118/1990

## LIST OF FORMS

<i>Form No.</i>	<i>Particulars</i>
1.	General title of writs and other documents in a suit
2.	Writ of summons
3.	Endorsement of service
4.	Summons to witness
5.	Notice to admit
6.	Warrant to arrest absconding defendant
7.	Bail bond by defendant and sureties
8.	Warrant to attach property before judgment
9.	Order to produce (general form)
10.	Formal decree
11.	Interpleader summons
12.	Writ of execution
13.	Judgment summons
14.	Warrant of arrest on judgment or order of Court
15.	Order of commitment on judgment or order of Court
16.	Notice of suspension of order of commitment
17.	Summons to garnishee
ASM 1	Writ of summons
ASM 2	Affiliation order
ASM 3	Order for financial provision, custody and access
ASM 4	Judgment summons (attachment of earnings)
ASM 5	Attachment of earnings order

FORM 1

GENERAL TITLE OF WRITS AND OTHER DOCUMENTS IN A SUIT

SOLOMON ISLANDS

IN THE

MAGISTRATE'S COURT

Civil Jurisdiction

Civil Case No. of 19 . MC

BETWEEN:

AND:

Plaintiff

Defendant

or

IN THE MATTER OF:

FORM 2

WRIT OF SUMMONS

Magistrates' Courts (Civil Procedure) Rules  
(0.7, r.2)

(General Title)

TO of the abovenamed defendant.

YOU ARE HEREBY REQUIRED TO ATTEND this court on the day of 19 at o'clock for the hearing of an action brought against you by the above-named plaintiff of

. The particulars of the claim are stated below.

IF YOU FAIL TO ATTEND, the plaintiff may proceed and the court may give judgment in your absence.

Dated this day of 19 .

Magistrate/Clerk of Court

Note.— The clerk of court may fill up the particulars if the plaintiff requests him to do so.

FORM 3

ENDORSEMENT OF SERVICE

Magistrates' Courts (Civil Procedure) Rules  
(0.8, r.3)

Served by me on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ o'clock at \_\_\_\_\_ on the within-named \_\_\_\_\_

.....  
(Signature)

NOTE: This should be filled up forthwith after service, by the officer effecting it.

Returned into the Clerk of Court's Office on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ o'clock.

.....  
Clerk of Court

FORM 4

SUMMONS TO WITNESS

Magistrates' Courts (Civil Procedure) Rules  
(0.8, r.18 (1))

(General Title)

To \_\_\_\_\_ of \_\_\_\_\_

YOUR ARE HEREBY REQUIRED TO ATTEND in person before this court on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_ o'clock and so from day to day till the above cause be tried to testify all that you know in the said cause

[and also to bring with you and produce to the court at the same time and place the following:-(\*)]

You are summoned at the instance of \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
*Magistrate/Clerk of Court*

[\*Delete if no document or other thing required to be produced.]

FORM 5

NOTICE TO ADMIT

Magistrates' Courts (Civil Procedure) Rules  
(0.16, r. 2)

(General Title)

TO \_\_\_\_\_ of \_\_\_\_\_

TAKE NOTICE THAT the plaintiff/defendant\* in the above action proposes to adduce in evidence the following documents/facts\*:-

YOU ARE HEREBY REQUIRED to state in writing on or before the day of \_\_\_\_\_ 19 \_\_\_\_\_ whether you admit or deny the authenticity of such documents/the truth of such facts\*.

[The documents will be available for your inspection at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ between the hours of \_\_\_\_\_ and \_\_\_\_\_\*]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ Magistrate/Clerk of Court.

\*Delete as appropriate

FORM 6

WARRANT TO ARREST ABSCONDING DEFENDANT

Magistrates' Courts (Civil Procedure) Rules  
(0.20, r.2)

(General Title)

To the Sheriff and all Police Officers

YOU ARE HEREBY COMMANDED to arrest \_\_\_\_\_ of \_\_\_\_\_ being the defendant in the above suit and bring him before me at this court there to show cause why he should not give bail or security for his appearance at any time when called upon when the above suit is pending and until execution or satisfaction of any decree which may be passed therein against him.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Magistrate

FORM 7

BAIL BOND BY DEFENDANT AND SURETIES

Magistrates' Courts (Civil Procedure) Rules  
(0.20, r.3)

(General Title)

I, the undersigned, acknowledge myself to owe to \_\_\_\_\_ of  
being the plaintiff in the above suit, his executors, administrators or assigns, the  
sum written opposite my signature hereto, to be raised by seizure and sale of  
my goods if the condition hereon is not fulfilled.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Signature	Address	Description	Sums

The condition of the within written recognisance is as follows:

If the said  
of  
being the defendant in the above suit, shall appear when called upon at any  
time before the court while the suit is pending and until execution or satis-  
faction of the decree of the court in case judgment therein be given against  
him or, in default of such appearance, the said defendant, his executors,  
administrators or assigns, shall pay to the said  
of \_\_\_\_\_, being plaintiff in the above suit, or his  
executors, administrators or assigns, any sum of money that may be  
adjudged against the said defendant in the suit, with costs, then this obliga-  
tion shall be void otherwise it shall remain in force.

FORM 8

WARRANT TO ATTACH PROPERTY BEFORE JUDGMENT

Magistrates' Courts (Civil Procedure) Rules  
(0.21, r.4)

(General Title)

To the Sheriff and all Police Officers

WHEREAS it has been shown to the satisfaction of this court that  
of , the defendant in the above suit, with intent to  
obstruct or delay the execution of any decree which may be passed against him  
in the suit, is about to dispose of or to remove from Solomon Islands his goods  
and chattels:

NOW, THEREFORE, YOU ARE COMMANDED to seize, attach and take  
into your hands the movable and immovable property of the defendant (or the  
certain property specified in the Schedule below to the estimated value of  
\$ ) and to hold the same until the further order of the court

AND YOU ARE ALSO COMMANDED forthwith after the execution of this  
warrant to return the same to this court endorsed with the time, place and  
particulars of its execution.

Dated this day of 19 .

Magistrate

SCHEDULE

Item

Value

Total

CERTIFICATE OF EXECUTION

I, stationed at  
in the Province of Solomon Islands hereby certify that I have  
executed this warrant at (place) at (time)  
and seized the following property of the abovenamed

Dated this day of 19 .

Signature

RETURN OF INSUFFICIENT DISTRESS

I, \_\_\_\_\_ stationed at \_\_\_\_\_ in the Province of \_\_\_\_\_ Solomon Islands, hereby certify that, by virtue of this warrant, I have made diligent search for the money and goods of the abovenamed \_\_\_\_\_ and that I can find no money or goods of \_\_\_\_\_ him/her whereupon the sums specified in this warrant can be levied.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Signature

FORM 9

ORDER TO PRODUCE (GENERAL FORM)

Magistrates' Courts (Civil Procedure) Rules  
(0.25, r.2)

(General Title)

TO \_\_\_\_\_ of \_\_\_\_\_ Plaintiff/Defendant\*

YOU ARE HEREBY ORDERED to produce and show to the court on the trial of the above action all books, papers, letters, copies of letters and other writing or documents in your custody, possession or power containing any entry, memorandum or minute relating to the matters in issue in the action and in particular the following:

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Magistrate

\*Delete as appropriate

FORM 10

FORMAL DECREE

Magistrates' Courts (Civil Procedure) Rules  
(0.30, r.4)

(General Title)

It is ordered in the above case that the Defendant shall pay to the Plaintiff the sum of \$            and \$            costs.

[The Defendant shall pay the sum of \$            forthwith]

[The Defendant shall pay the sum of \$            by the            day of            19    ]

[The Defendant shall pay the sum of \$            by instalments of \$            every (week) (fortnight) (month).

The first payment shall be made on or before the day of    19]

[IN ADDITION the Defendant shall pay interest on the judgment sum and costs of \$            at            % from the date of judgment until the sum is paid]

Dated this            day of            19    .

Magistrate

Judgment Sum		\$
Costs		\$
Interest on \$	at    %	\$ _____
<b>TOTAL</b>		<u>\$ _____</u>



FORM 11

INTERPLEADER SUMMONS

Magistrates' Courts (Civil Procedure) Rules  
(0.33, r.2)

(General Title)

TO the Claimant [s]:

of

and

of

WHEREAS

of

informed this court that he has received adverse claims from

of

and

of

to (\*)

YOU ARE THEREFORE SUMMONED to appear at this court on the  
day of 19 at o'clock when judgment will be  
given determining the rights and claims aforesaid

NOTE: You are each required within 7 days after the service of this summons  
upon you, inclusive of the day of service, to file in the court either a notice that  
you make no claim or particulars stating the ground of your claim.

Dated this day of 19 .

Magistrate

\*Insert the subject-matter to which the adverse claims relate.

\_\_\_\_\_

FORM 12

## WRIT OF EXECUTION

Magistrates' Courts (Civil Procedure) Rules  
(0.34, r.2)

(General Title)

TO the Sheriff and all Police Officers

On the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ at the \_\_\_\_\_ [Magistrate's]  
[Local] Court judgment was entered against  
the above-named Defendant in the sum of \$ \_\_\_\_\_ and costs of \$ \_\_\_\_\_

The Defendant has not paid the sum of \$ \_\_\_\_\_

YOU ARE HEREBY ORDERED to seize and sell the Defendant's goods and  
chattels and pay any sums realised upon such sale to this court.

Judgment Sum	\$ _____
Costs	\$ _____
Fee on issue of this Writ	\$ _____
Costs of execution	\$ _____
Fee for seizure	\$ _____
Interest at _____ %	\$ _____
Poundage @ 5%	\$ _____
<b>TOTAL</b>	<b>\$ _____</b>

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_

Magistrate

## CERTIFICATE OF EXECUTION

I, \_\_\_\_\_ stationed at \_\_\_\_\_ in  
the \_\_\_\_\_ Province of Solomon Islands hereby certify that I have  
executed this warrant at \_\_\_\_\_  
(place) at (time) and seized the following property of the above named

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_

.....  
Signature

RETURN OF INSUFFICIENT DISTRESS

I, \_\_\_\_\_ stationed at \_\_\_\_\_  
in the \_\_\_\_\_ Province of Solomon Islands, hereby certify that,  
by virtue of this warrant, I have made diligent search for the money and goods  
of the abovenamed \_\_\_\_\_ and that I can find no money or goods  
of him/her whereupon the sums specified in this warrant can be levied.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

.....  
Signature

FORM 13

JUDGMENT SUMMONS

Magistrates' Court (Civil Procedure) Rules  
(0.34, r. 7)

(General Title)

To \_\_\_\_\_ of \_\_\_\_\_  
the above-named Defendant.

YOU ARE HEREBY REQUIRED to attend the \_\_\_\_\_ Magistrate's  
Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at o'clock to show cause why  
you should not be committed to prison for failure to pay the sum of the original  
judgment debt together with the costs of the judgment summons.

IF YOU FAIL TO APPEAR at the time and place stated above the court may  
issue a warrant for your committal to prison unless the judgment debt is  
satisfied.

Amount of judgment debt outstanding \$ \_\_\_\_\_  
Plus court fees \$ \_\_\_\_\_  
TOTAL \$ \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

\_\_\_\_\_  
Magistrate/Clerk of Court

FORM 14

WARRANT OF ARREST ON JUDGMENT OR ORDER OF COURT

Magistrates' Courts (Civil Procedure) Rules  
(0.34, r. 14)

(General Title)

TO the Sheriff and all Police Officers

The above-named Plaintiff obtained judgment against the above-named defendant in the \_\_\_\_\_ Magistrate's Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ for the payment of \$ \_\_\_\_\_ [debt] [damages] and \$ \_\_\_\_\_ costs. The defendant has failed to pay \$ \_\_\_\_\_.

He was summoned to attend court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ to explain his means.

[He failed to attend court on the said date and has shown no reason why he has not paid]

[I have examined him and I am satisfied that he could have paid this sum since the judgment was obtained but he has deliberately not paid]

YOU ARE HEREBY ORDERED to arrest and bring him before me at this Magistrate's Court immediately UNLESS he pays the sum of \$ \_\_\_\_\_ at the time of arrest.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Magistrate

Amount of Judgment Debt	\$ _____
Original Costs	\$ _____
Costs on Judgment Summons	\$ _____
[Fee on issue of this warrant] payable by Defendant	\$ _____
TOTAL	\$ _____

FORM 15

ORDER OF COMMITMENT ON JUDGMENT OR ORDER OF COURT

Magistrates' Courts (Civil Procedure) Rules  
(0.34, r. 14)

(General Title)

TO the Sheriff, all Police Officers and the Officer in Charge of the prison at

The above-named Plaintiff obtained judgment against the above-named defendant in the Magistrate's Court on the day of 19 for the payment of \$ [debt] [damages] and \$ costs. The defendant has failed to pay \$

He was summoned to attend court at on the day of 19 to explain his means.

[He failed to attend court on the said date and has shown no reason why he has not paid]

[I have examined him] and I am satisfied that he could have paid this sum since the judgment was obtained but he has deliberately not paid

YOU ARE HEREBY ORDERED to take to the prison at and hold him there for the period of unless the amount of \$ is paid by him or on his behalf at any time before the said period has expired.

Dated this day of 19 .

Magistrate

Amount of Judgment Debt	\$
Original Costs	\$
Costs on Judgment Summons	\$
[Fee on issue of this warrant payable by Defendant	\$
TOTAL	\$

FORM 16

NOTICE OF SUSPENSION OF ORDER OF COMMITMENT

Magistrates' Courts (Civil Procedure) Rules  
(0.34 r. 14)

(General Title)

TO \_\_\_\_\_ of  
the above-named defendant.

The above-named Plaintiff obtained judgment against you in the  
Magistrate's Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ for the payment  
of \$ \_\_\_\_\_ [debt] [damages] and \$ \_\_\_\_\_ costs. You have failed to pay \$ \_\_\_\_\_.

I am satisfied that you could have paid this sum since the judgment was  
obtained but you have deliberately not paid.

TAKE NOTICE THEREFORE that I have committed you to prison for  
\_\_\_\_\_ days/weeks but this will not take effect if you pay the sum of \$ \_\_\_\_\_

[by the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ ] [by instalments of \$ \_\_\_\_\_ per  
the first payment to be paid on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ and  
every \_\_\_\_\_ thereafter]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

Magistrate

Amount of Judgment Debt	\$ _____
Original Costs	\$ _____
Costs on Judgment Summons	\$ _____
[Fee on issue of this warrant] payable by Defendant	\$ _____
TOTAL	\$ _____

FORM 17

SUMMONS TO GARNISHEE

Magistrates' Courts (Civil Procedure) Rules  
(0.34, r. 19 (1))

(General Title)

TO the Garnishee

The above-named Plaintiff on the day of  
19 obtained judgment against the above-named Defendant in the  
Magistrates' Court in the sum of \$ [debt] [damages]\* and \$ costs.

The Defendant has not paid and the Plaintiff believes that you owe or hold  
money on behalf of the defendant in the sum of  
\$ or more.

YOU the above-named garnishee ARE  
HEREWITH SUMMONED to appear at the  
Magistrate's Court on the day of 19 at o'clock to  
show reasons why you should not pay money directly to the Court or to the  
Plaintiff.

YOU MUST NOT PAY ANY MONEY TO THE DEFENDANT AFTER YOU  
HAVE RECEIVED THIS SUMMONS.

If you owe or hold any money on behalf of the Defendant and  
DO NOT WISH to attend court you can pay any money INTO COURT at  
the Magistrate's Court.

If you do not owe or hold money on behalf of the defendant YOU MUST  
ATTEND the Court and explain. You will be able to claim costs of attendance  
and the court may order your reasonable costs to be paid.

Dated this day of 19

Magistrate

Amount of Judgment	\$
Costs to date	\$ _____
TOTAL	\$ _____

\* Delete as appropriate

FORM ASM 1

WRIT OF SUMMONS

Affiliation, Separation & Maintenance Act

SOLOMON ISLANDS

IN THE

MAGISTRATE'S COURT

Civil Jurisdiction

Civil Case No. of 19 MC

BETWEEN:

AND:

Complainant

Respondent

TO of the above-named respondent.

YOU ARE HEREBY SUMMONED to attend this court on the day of 19 at o'clock for the hearing of a complaint brought against you by the above-named complainant the grounds for and the particulars of which complaint are stated below.

IF YOU FAIL TO ATTEND according to this summons the complainant may proceed and the court may make an order in your absence.

COMPLAINT:

Dated this day of 19

Magistrate/Clerk of Court



FORM ASM 2

## AFFILIATION ORDER

Affiliation, Separation &amp; Maintenance Act s. 9

SOLOMON ISLANDS

IN THE MAGISTRATE'S COURT

Civil Jurisdiction

Civil Case No. of 19 . MC

BETWEEN: AND:  
Complainant Respondent

TO of the above-named

Respondent

ON the complaint of on the day of 19 you were judged  
to be the father of born on the day of 19 .

## IT IS NOW ORDERED THAT:

1. You, the respondent, pay to the complainant the sum of \$ towards the birth expenses [forthwith] [by the day of 19 ] [by instalments of \$ per . The first payment shall be made on the day of 19 ]
2. You, the respondent, pay for the benefit of the said child \$ per until the child reaches the age of sixteen years or until the court makes further orders. The first payment shall be made on the day of 19 .
3. You, the respondent, pay the costs of these proceedings of \$ [forthwith] [by the day of 19 ]

Dated this day of 19 .

Magistrate

NOTE: All payments under this order are to be made to the Clerk of Court at Magistrate's Court.

FORM ASM 3

ORDER FOR FINANCIAL PROVISION, CUSTODY AND ACCESS

Affiliation, Separation & Maintenance Act, s. 13

SOLOMON ISLANDS

IN THE MAGISTRATE'S COURT

Civil Jurisdiction

Civil Case No. of 19 MC

BETWEEN: Complainant AND: Respondent

TO Complainant of the above-named Complainant

AND TO of the above-named Respondent.

Having heard the complaint of [and having heard the Respondent] the following ORDERS(s) ARE MADE:

FINANCIAL PROVISIONS

- 1. You, the Respondent, pay to the Complainant \$ per from the day of 19 .
2. You, the Respondent, pay to the Complainant a lump sum payment of \$ [forthwith] [by the day of 19 .] [by instalments of \$ per . The first payment shall be made on the 19 .]
3. You the Respondent/Complainant pay for the benefit of the child[ren] namely -

Name Date of Birth

[the sum of \$ [per child] per until the child[ren each] attains the age of 16 years or the court makes a further order.] [a lump sum of \$ (per child)] [forthwith] [by the day of 19 .] [by instalments of \$ per . The first payment shall be made on the day of 19 .]

ALL PAYMENTS UNDER THE ABOVE ORDER ARE TO BE MADE TO THE CLERK OF THE COURT

---

CUSTODY AND ACCESS

1. Legal custody of:

Name

Date of Birth

is given to the complainant/respondent

2. Reasonable access to the afore-mentioned child[ren] is given to the respondent/complainant [subject to the following conditions:]

SUPPLEMENTARY

That the respondent pay costs of \$            to the complainant/or this court  
[forthwith]  
[not later than the            day of            19    .]

Dated this            day of            19    .

Magistrate

  

---

FORM ASM 4

JUDGMENT SUMMONS (ATTACHMENT OF EARNINGS)

Affiliation, Separation and Maintenance Act, s 26(1)

SOLOMON ISLANDS

IN THE

MAGISTRATE'S COURT

Civil Jurisdiction

Civil Case No. of 19 MC

BETWEEN:

AND:

Complainant

Respondent

TO of the above-named Respondent.

YOU ARE HEREBY REQUIRED to attend court on the day of 19 at o'clock to show cause why your salary should not be attached pursuant to the provisions of s. 26(1) of the Affiliation, Separation and Maintenance Act.

Arrears under the order made by this court on the day of 19 are as at the day of 19 as follows:

Maintenance	\$
Expenses of birth	\$
TOTAL	\$
Plus court fees	\$
TOTAL	\$

IF YOU FAIL TO ATTEND according to this summons, the court may make any such order as it considers appropriate.

Dated this day of 19

Magistrate/Clerk of Court

FORM ASM 5

ATTACHMENT OF EARNINGS ORDER

Affiliation, Separation & Maintenance Act, s. 26

SOLOMON ISLANDS

IN THE MAGISTRATE'S COURT

Civil Jurisdiction

Civil Case No. of 19 . MC

BETWEEN: Complainant AND: Respondent

TO the respondent AND TO the employer

The above-named respondent is liable to make payments of \$ per to the complainant under an [affiliation] [financial provision] order made by this court on the day of 19 and the court is satisfied that the respondent is a person to whom earnings are payable or are likely to become payable by the above-named employer. The respondent has been given an opportunity to be heard and the court is satisfied that he has [without reasonable cause failed to make the payments] [has consented to an order being made in the terms of the following order]

IT IS THEREFORE ORDERED:

- 1. That the employer by its duly authorised officer do make payments of \$ per out of those earnings in pursuance of the provisions of section 26 of the Affiliation, Separation and Maintenance Act to the Clerk of the Magistrates Court at for transmission to the complainant.
2. That in order to pay off the arrears that today total \$ , the employer do pay an additional sum of \$ per until such arrears are fully paid.
3. Payments are to commence from the day of 19 .

Dated this day of 19 .

Magistrate

Please see notice on reverse of this form.

LN 40/1989

APPENDIX B.

(0.2, r. 4)

I. FEES— IN CIVIL CAUSES OR MATTERS.

	\$
1. On issue of Summons:	
(a) Where the amount involved or annual value does not exceed \$500	30.00
(b) Where the amount involved or annual value exceeds \$500 but does not exceed \$1000	50.00
(c) Where the amount involved or annual value exceeds \$1000 but does not exceed \$2000	75.00
(d) Where the amount involved exceeds \$2000	100.00
2. On summons where judicial relief is sought but not the recovery of money or property and where the amount involved cannot be estimated	30.00
3. On set-off or counterclaim: a fee of the same amount as the fee payable on the issue of a summons.	
4. Renewal of writ of summons etc., a fee of half the amount as the fee payable on the issue of a summons.	
5. On an application to enforce any order by attachment or to commit a judgment debtor to prison	10.00
6. On every summons to a witness	10.00
7. On every oath to the truth of an affidavit or deposition administered by a Magistrate or by a Justice of the Peace	5.00
8. On marking any exhibit attached to any affidavit	1.00
9. On every application or summons not specifically charged...	10.00
10. On order of attachment	10.00
11. On order for execution and sale	10.00
12. On order for committal	10.00
13. On any order of the court not specifically charged	10.00
14. On certifying a copy of a document as an office copy	5.00
15. On copies of proceedings: for each handwritten page of A4 ISO size	5.00 per page

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## II. Fees—Civil Appeal to Magistrate's Court

- |  |        |                  |
|--|--------|------------------|
| 1. On appeal to a Magistrate's Court   | ... .. | 25.00            |
| 2. For a copy of the record of appeal for the appellate court:<br>for each handwritten page of A4 ISO size | ... .. | 5.00 per<br>page |

## III. SHERIFF'S FEES

- |   |        |       |
|---|--------|-------|
| 1. For the service of writ of summons or subpoena or any other<br>process on each defendant or witness in addition to any<br>reasonable expenses of bailiff | ... .. | 10.00 |
| 2. For seizure  | ... .. | 20.00 |
| 3. For every arrest in a civil case   | ... .. | 20.00 |
| 4. For conveying to prison from place of arrest, the reasonable<br>travelling expenses actually incurred.   |        |       |
| 5. For executing process of attachment or committal   | ... .. | 20.00 |
| 6. For any duty not herein provided for, such sum as the court<br>may allow.  |        |       |

## IV. INTERPRETER'S FEE

- |                               |        |       |
|-------------------------------|--------|-------|
| On request for an interpreter | ... .. | 10.00 |
|-------------------------------|--------|-------|
-

## APPENDIX C

(0.2, r. 5)

## SCALE OF ADVOCATE'S COSTS

	When the subject matter or sum recovered amounts to			
	\$40 or under	Over \$40 but under \$100	Over \$100 but under \$200	Over \$200
<i>Summonses etc.</i>	\$	\$	\$	\$
1. Preparing summons, claim, defence (other than a general denial), counterclaim, including particulars annexed, or judgment summons and fair copy	0.50 to 1.00	1.00	1.25 to 2.00	2.00 to 3.00
2. Copy to serve ... ..	0.25	0.25	0.25	0.25
3. Preparing request for further particulars of claim or counter-claim and fair copy	0.25	0.50	0.50	0.50
4. Preparing further particulars and fair copy	0.25	0.50	0.50	0.50
5. Copy to serve ... ..	0.25	0.25	0.25	0.25
6. Preparing subpoena (one to four witnesses)	0.25	0.50	0.50	0.50
7. Copy for service, each witness ...	0.25	0.25	0.25	0.25
<i>Notices</i>				
8. Preparing notice to produce or admit facts	0.25	0.50	0.50 to 1.00	1.00 to 1.25
If necessarily long, such additional allowance as taxing master shall think proper, not exceeding per folio	0.20	0.20	0.20	0.20
9. Preparing motion paper or any other necessary notice and fair copy	0.25	0.50	0.50	0.50 to 1.00
10. Preparing notice of discontinuance and fair copy	0.25	0.25	0.25	0.25
11. Preparing notice of appointment to tax costs and fair copy	0.25	0.25	0.25	0.25
<i>Instructions</i>				
12. To sue or defend in any proceedings	0.25 to 0.50	0.50 to 1.00	1.25 to 2.00	1.50 to 4.00
13. For affidavit ... ..	0.25 to 0.50	0.50 to 1.00	1.00 to 1.50	1.00 to 2.00
14. For interlocutory application ...	0.25 to 0.50	0.50 to 1.00	1.00 to 2.00	1.50 to 4.00



	When the subject matter or sum recovered amounts to			
	\$40 or under	Over \$40 but under \$100	Over \$100 but under \$200	Over \$200
	\$	\$	\$	\$
15. For trial ... ..	1.00	1.50	4.00	5.00
	to	to	to	to
	1.50	4.00	8.00	10.00
16. For drawing proof of each witness allowed on taxation	0.50	0.50	0.50	0.50
			to	to
			0.75	2.00
<i>Drawing</i>				
17. Admissions of facts and fair copy	0.25	0.50	0.50	0.50
18. Affidavit and fair copy ... ..	0.25	0.50	0.50	0.50
Or per folio ... ..	0.15	0.15	0.15	0.15
19. Accounts, statements and other documents when required by court or other party, per folio	0.15	0.15	0.15	0.15
20. Bill of costs for taxation and fair copy	0.25	0.50	0.50	0.50
Or per folio ... ..	0.15	0.15	0.15	0.15
21. Writ of execution and fair copy ...	0.25	0.50	0.75	0.75
<i>Copies</i>				
22. Of all documents for which no special rate is provided, per folio	0.10	0.10	0.10	0.10
<i>Attendances</i>				
23. To enter summons, judgment summons, motion, to file counterclaim, particulars, conclude issues, file admission of facts, affidavit of documents, interpleader proceedings etc.	0.25	0.25	0.50	0.50
24. To issue subpoena or discontinue action	0.25	0.25	0.50	0.50
25. To apply for costs on notice of discontinuance	0.50	0.50	1.00	1.00
26. To inspect or produce for inspection documents	0.25	0.50	1.00	1.00 to 3.00
27. To obtain or give consent, admission or swear affidavit	0.25	0.50	0.50	0.50
28. On hearing of judgment summons	1.00	1.00	1.00	1.00 to 4.00
	to	to		
	2.00	2.00		
29. Interlocutory application ... ..	0.50	1.00	2.00	1.00 to 3.00

	When the subject matter or sum recovered amounts to			
	\$40 or under	Over \$40 but under \$100	Over \$100 but under \$200	Over \$200
	\$	\$	\$	\$
30. On trial —				
(a) When case adjourned, not being part heard	0.50	1.00	1.00	1.00
(b) When judgment given in default	1.00	1.00	1.00	1.00
(c) When case defended —				
for the first hour ... ..	2.00	2.00	2.00	4.00
for each hour thereafter ... ..	1.00	2.00	2.00	2.00
but not exceeding per day ... ..	4.00	6.00	10.00	20.00
31. To hear reserved judgment ... ..	0.50	0.50	1.00	1.50
32. To obtain appointment for taxation	0.25	0.50	0.50	0.50
33. To tax bill of costs ... ..	0.50	0.50	0.50	1.00
34. To issue writ of execution ... ..	0.25	0.25	0.50	0.50
35. For any other attendance at court or upon clerk of court, bailiff, etc., not specifically provided for	0.25	0.50	0.50	0.50
	to	to	to	to
	0.50	1.00	1.00	1.00
36. Letter in lieu of attendance or before action	0.50	0.50	0.50	0.50
37. Perusing necessary documents, per folio	0.10	0.10	0.10	0.10
<i>Garnishee proceedings</i>				
38. Inclusive sum —				
(a) Where debt is sought to be attached out of salary or wages of any person not protected from attachment by law	2.00	3.00	5.00	5.00
(b) Where debt sought to be attached is not out of salary or wages	3.00	4.00	6.00	6.00
39. For attending to apply for payment out of money in court, or to obtain judgment or order against consenting garnishee and judgment debtor does not oppose	0.50	1.00	1.00	1.00
<i>Travelling allowance</i>				
40. For every day or part of a day during which, in the opinion of the taxing master, an advocate is necessarily engaged in travelling from his place of business in Solomon Islands to the place of trial and returning therefrom, and for every day during which he is necessarily detained at the place of trial prior to or subsequent to the trial, such sum as the taxing master may think reasonable, not exceeding a total of ... ..	2.00	2.00	4.00	6.00
	6.00	6.00	12.00	19.00

	When the subject matter or sum recovered amounts to			
	\$40 or under	Over \$40 but under \$100	Over \$100 but under \$200	Over \$200
<i>Travelling expenses</i>	\$	\$	\$	\$
41. An advocate shall be entitled to charge a reasonable sum for expenses of conveyance to and from court when he resides more than three miles from the court. If he attends the court in more than one cause he will be entitled to a proportionate allowance under this and item 40 in each cause only.				
Note.—No allowance shall be made under this or item 40 if another advocate has his place of business at the place of trial and his services were available unless special circumstances are shown.				

APPENDIX D  
(0.2, r. 5)  
SCALE OF ADVOCATE'S COSTS

PART I

DEFENDED CASES

	\$
Where the subject-matter or amount recovered does not exceed \$40 ... ..	4.00
Where the subject-matter or amount recovered exceeds \$40 but does not exceed \$60 ... ..	6.00
Where the subject-matter or amount recovered exceeds \$60 but does not exceed \$80 ... ..	8.00
Where the subject-matter or amount recovered exceeds \$80 but does not exceed \$100 ... ..	10.00
Where judicial relief is sought but not the recovery of money or property and where the amount involved cannot be estimated.	Such amount as the court will allow, not exceeding \$10.00

PART II

UNDEFENDED CASES

	\$
Where the subject-matter or amount recovered does not exceed \$40 ... ..	2.00
Where the subject-matter or amount recovered exceeds \$40 but does not exceed \$60 ... ..	3.00

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	\$
Where the subject-matter or amount recovered exceeds \$60 but does not exceed \$80 ... ..	4.00
Where the subject-matter or amount recovered exceeds \$80 but does not exceed \$100 ... ..	5.00
Where the subject-matter or amount recovered exceeds \$100 but does not exceed \$200 ... ..	6.00
Where the subject-matter or amount recovered exceeds \$200 but does not exceed \$4.00 ... ..	8.00
Where the subject-matter or amount recovered exceeds \$400 but does not exceed \$600 ... ..	10.00
Where the subject-matter or amount recovered exceeds \$600 but does not exceed \$1000 ... ..	12.00
Where judicial relief is sought but not the recovery of money or property and where the amount involved cannot be estimated.	Such amount as the court shall allow, not exceeding \$5.00

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THE MAGISTRATES' COURTS (COSTS IN CRIMINAL CASES) RULES  
(Section 76)

L.N. 75/1964  
LN 22/1983

[5th June 1964]

- |  |   |
|--|---|
| 1. These Rules may be cited as the Magistrates' Courts (Costs in Criminal Cases) Rules.  | Title   |
| 2. In these Rules "Court" means a Magistrate's Court.  | Definition  |
| 3. A Magistrate in the exercise of his criminal jurisdiction may direct the payment of the costs of the prosecution or defence or both in accordance with the provisions of these Rules out of the Consolidated Fund   | Magistrates may direct the payment of costs         |
| 4. The costs which may be so directed to be paid are such sums as, subject to these Rules, appear to the Court reasonably sufficient to compensate the prosecutor for the expense properly incurred by him in instituting and carrying on the prosecution and to compensate any person acting as an interpreter or attending to give evidence for the prosecution or defence or called to give evidence at the instance of the Court for the expense, trouble, or loss of time properly incurred in or incidental to the attendance and acting as an interpreter or to the giving of evidence. | Amounts to be paid                                  |
| 5. The making of any order for the payment of costs under these Rules shall be in the discretion of the Court.   | Amount in discretion of Court                       |
| 6. No expenses to witnesses whether for the prosecution or defence if such witnesses are witnesses to character only shall be allowed unless the Court otherwise orders.   | Witnesses of character                              |
| 7.—(1) The allowances for costs which may be ordered to be paid under these Rules shall conform to the respective scales set out in the Schedule hereto.   | Costs to conform to scale<br>Schedule               |
| (2) If a person attends in respect of more cases than one he shall not be allowed more than a proportionate part of the allowance in each case.  |   |
| 8.—(1) No full day allowance under these Rules shall be ordered to be paid to a witness unless the witness is necessarily detained away from his home or place of business or employment for at least four hours for the purpose of giving evidence.   | Time witness away from home, etc., to be considered |

(2) If the time during which the witness is necessarily so detained be less than four hours he shall not receive more than one-half of the allowance which he would have received had he been detained for the full day:

Provided that this provision shall not apply where the Court is satisfied that a witness though absent for less than four hours necessarily loses in consequence of his attendance his whole day's wages or earnings.

Travelling and  
maintenance

9. Witnesses and interpreters attending court in any criminal case or matter may in addition, in the discretion of the Magistrate, be allowed travelling and maintenance expenses reasonably and actually incurred.

#### SCHEDULE

(Rule 7)

LN 22/1983

1. To Interpreters six dollars per day.
2. To expert witnesses such allowances as the Court may consider reasonable.
3. To professional men, merchants, bankers and planters not less than ten dollars per day and not more than eighteen dollars per day.

LN 22/1983

4. To tradesmen, labourers, self-employed persons (whether for the purposes of subsistence or otherwise, artisans, mechanics, overseers, clerks, and store assistants not less than two dollars per day and not more than ten dollars per day.
5. To persons not coming within any of the above classes and to females and children such allowances as the Court may consider reasonable.