

**LAWS OF BRUNEI**

**REVISED EDITION 1984**

**CHAPTER 7**

**CRIMINAL PROCEDURE CODE**

**ARRANGEMENT OF SECTIONS**

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FIRST SCHEDULE—Tabular Statement of  
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Code

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## CRIMINAL PROCEDURE CODE\*

## An Act to establish a Code of Criminal Procedure

16 of 1951  
(Cap. 7 of  
1951)

7 of 1953

8 of 1953

*Commencement: 1st May 1952*

1 of 1955

2 of 1957

1 of 1958

S.99/59

2 of 1960

3 of 1966

S.140/81

11 of 1982

S.39/84

## PART I

## PRELIMINARY

## Chapter I

1. (1) This Act may be cited as the Criminal Procedure Code, and is generally referred to in this Act as “this Code”. Short title and application

(2) This Act shall not apply to Native Courts.

2. (1) In this Code, unless the context otherwise requires — Interpretation

“bailable offence” means an offence shown as bailable in the First Schedule to this Code or which is made bailable by any other law for the time being in force and “non-bailable offence” means any other offence;

“Chief Justice” means the Chief Justice of the Supreme Court for Brunei;

“Commissioner of Police” means the Commissioner of Police, Royal Brunei Police Force;

“complaint” means the allegation made orally or in writing to a magistrate with a view to his taking action under this Code that some person whether

\*Note: The numbering of the sections follows that in the corresponding Code in force in 1952 in the then Colony of Sarawak.

known or unknown has committed or is guilty of an offence;

“Court” means the High Court and the Court of a Magistrate;

“Court of Appeal” means the Court of Appeal of the Supreme Court for Brunei;

“District Officer” includes, where the context so permits, a Dato Penghulu, a Penghulu and a Ketua;

“fine” includes any fine, pecuniary penalty or forfeiture or compensation adjudged upon any conviction of any crime or offence or for the breach of any law for the time being in force by any Court in Brunei;

“High Court” means the High Court of the Supreme Court for Brunei;

“inquiry” includes every inquiry conducted under this Code before a magistrate;

“Judge” means a Judge of the Supreme Court and includes, where the context so permits, the Chief Justice;

“judicial proceeding” means any proceeding in the course of which evidence is or may be legally taken;

“magistrate” means a magistrate appointed by His Majesty the Sultan and Yang Di-Pertuan under the Subordinate Courts Act, or under any written law;

“medical officer” means a registered medical practitioner employed by Government and if no such officer is available then any other duly registered medical practitioner or any hospital assistant authorised by the Director of Medical Services either

generally or for any specific purpose to exercise the functions of a medical officer under this Code;

“non-seizable offence” means an offence for which and “non-seizable case” means a case in which a police officer may not ordinarily arrest without warrant according to the third column of the First Schedule or under the provisions of any other written law for the time being in force;

“offence” means any act or omission made punishable by any law for the time being in force;

“officer in charge of a Police District or station” means the officer appointed to perform the duties of that office and when such officer is absent therefrom or unable from illness to perform his duties the police officer present and acting in the district or station who is next in rank below such officer;

“place” includes a house, building, tent and vessel;

“Police District” means any area which has been constituted a Police District by regulations made under the Royal Brunei Police Force Act, and unless and until districts are so constituted means an ordinary administrative district; Cap. 50

“police officer” means any member of the Royal Brunei Police Force and includes a special police officer when mobilised or deemed to be mobilised for active service;

“postal article” means any letter, postcard, book, document, pamphlet or sample parcel or package or other article whatsoever transmitted by post;

“Registrar” means the Chief Registrar or a Registrar of the Supreme Court and includes a Deputy or Assistant Registrar;

“seizable offence” means an offence for which and “seizable case” means a case in which a police officer may ordinarily arrest without warrant

according to the third column of the First Schedule or under the provisions of any other written law for the time being in force;

“summons case” means a case relating to an offence not being a warrant case;

Cap. 5

“Supreme Court” means the Supreme Court of Brunei established by the Supreme Court Act;

“warrant case” means a case relating to an offence punishable with death or with imprisonment for a term exceeding 6 months;

“youthful offender” includes any child convicted of an offence punishable by fine or imprisonment who in the absence of legal proof to the contrary is above the age of 7 and under the age of 18 years in the opinion of the Court before which such child is convicted.

(2) Words which refer to acts done extend also to illegal omissions.

Cap. 22

(3) All words and expressions used herein and defined in the Penal Code and not hereinbefore defined shall be deemed to have the meanings attributed to them by that Code.

(4) The marginal notes of this Code shall not affect the construction thereof.

Trial of offences under Penal Code and against other laws

3. All offences under the Penal Code shall be inquired into and tried according to the provisions hereinafter contained, and all offences under any other law shall be inquired into and tried according to the same provisions, subject however to any Act for the time being in force regulating the manner or place of inquiring into or trying such offences.



4. Nothing in this Code shall be construed as derogating from the Powers or jurisdiction of the Supreme Court.

Saving of powers of Supreme Court

## PART II

### CONSTITUTION AND POWERS OF CRIMINAL COURTS

#### Chapter II

#### Criminal Courts Generally

5. (1) The Courts for the administration of criminal justice in Brunei to which this Code applies shall be the following —

Classes of Criminal Courts

- (a) The High Court;
- (b) Courts of Magistrates.

(2) A Judge may sit in and constitute a Court of a Magistrate.

6. (1) The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them.

Court to be open

(2) The presiding Judge or magistrate may, if he thinks fit, on special grounds of public policy or expediency in his discretion, order at any stage of any inquiry into, or trial of, any particular case that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court. In every such case the grounds on which the order is made shall be recorded.

(3) This section shall not apply to witnesses who shall ordinarily be excluded from the Court until they give evidence.

Jurisdiction

7. Subject to the other provisions of this Code the jurisdiction of the said Courts in criminal matters shall extend to offences committed —

(a) within Brunei; or

(b) on the high seas on board ships registered in Brunei; or

(c) by subjects of His Majesty domiciled in Brunei whether the offence was committed within or without Brunei.

Powers of Courts

8. (1) Subject to the other provisions of this Code any offence under the Penal Code may be tried —

(a) by the High Court;

(b) by a Court of a Magistrate where such offence is shown in the eighth column of the First Schedule to be so triable.

(2) Where a Court of a Magistrate is given power by the eighth column of the First Schedule to try an offence for which such Court has not power to award the maximum punishment, the Court shall, if it is of the opinion that the punishment it has power to award is inadequate, commit the accused person for trial by the High Court.

Offences under other laws

9. (1) Subject to the other provisions of this Code, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned it may be tried by the High Court or any other Court to which this Code applies:

Provided that no Court of a Magistrate shall by virtue of this subsection try an offence which is punishable with imprisonment for a term which may exceed 5 years.

10. The High Court may pass any sentence authorised by law.

Sentences which High Court may pass

11. (1) Without prejudice to any provision of any other written law conferring special jurisdiction on Courts of Magistrates, such courts may pass a sentence of imprisonment for a term not exceeding 3 years or a fine not exceeding \$5,000 or, where the Chief Justice by notification in the *Government Gazette* confers upon any magistrate special jurisdiction then in a Court presided over by such magistrate, the sentence may be increased to imprisonment for a term of 7 years or a fine of \$10,000.

Sentences which Magistrates Courts may pass

(2) The Court of a Magistrate may pass any lawful sentence, combining any of the sentences which it is authorised by law to pass.

(3) His Majesty may limit the jurisdiction of any magistrate.

12. (1) The Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by section 254 of this Code:

Power of magistrates to sentence to imprisonment in default of fine

Provided that the term is not in excess of the magistrate's powers under this Code.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the magistrate under section 11.

Sentence  
in case of  
conviction  
of several  
offences at  
one trial

**13.** (1) When a person is convicted at one trial of 2 or more distinct offences, the Court may, subject to the provisions of section 71 of the Penal Code, sentence him for such offences to the several punishments prescribed therefor which such Court is competent to inflict, such punishments to commence the one after the expiration of the other in such order as the Court may direct unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before the High Court:

Provided that —

(a) in no case shall such person be sentenced to imprisonment for a longer period than 15 years;

(b) the aggregate punishment shall not exceed 3 times the amount of punishment which the magistrate in the exercise of his ordinary jurisdiction is competent to inflict.

(3) For the purpose of appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

Taking out-  
standing  
offences into  
consideration

**13A.** (1) Where offences other than the one of which an accused person has been convicted and of a similar nature have been committed by him and are still untried and admitted by him are within the jurisdiction of that Court and he desires that they should be taken into consideration in determining the sentence to be imposed the Court may, subject to the provisions of subsection (2), properly taken them into consideration.

(2) In exercising the jurisdiction conferred by subsection (1) the Court shall record convictions in respect of such offences as such accused person admits without recourse to the provisions of Part VI of this Code other than Chapters XXIV and XXVI and proceed to sentence thereon:

Provided that the Court shall first be satisfied that the Public Prosecutor or a person authorised by any general or special direction of the Public Prosecutor in such behalf consents to the exercise of the jurisdiction hereinbefore conferred.

14. Subject to the provisions of this Code every magistrate shall have cognisance of and power and authority to —

Criminal  
jurisdiction  
of magis-  
trates

(a) hear, try, determine and dispose of in a summary way prosecutions for offences cognisable by such magistrate;

(b) inquire into offences committed or alleged to have been committed with a view to committal for trial by the High Court;

(c) inquire into complaints of offences and summon and examine witnesses touching such offences and summon and apprehend and issue warrants for the apprehension of criminals and offenders, and deal with them according to law;

(d) issue search warrants under the provisions of this Code in that behalf, and require persons to furnish security for the peace or for their good behaviour according to law;

(e) hold inquests; and

(f) do all other matters and things which a magistrate is empowered to do by this Code or any other Act.

PART III  
GENERAL PROVISIONS

Chapter III

Aid and Information to Magistrates and Police and Persons  
making Arrests

Public when  
to assist  
magistrates  
and police

**15.** (1) Every person is bound to assist a magistrate, police officer or District Officer reasonably demanding his aid —

(a) in the taking or preventing the escape of any other person whom such magistrate, police officer or District Officer is authorised to arrest;

(b) in the prevention of a breach of the peace or of any injury attempted to be committed to any railway, tramway, canal, dock, wharf, telegraph or public property;

(c) in the suppression of a riot or affray.

(2) Every person failing to give such assistance as is required by this section shall be guilty of an offence under section 187 of the Penal Code.

Aid to per-  
sons other  
than police  
officer  
executing  
warrant

**16.** When a warrant is directed to a person other than a police officer any other person may aid in the execution of such warrant if the person to whom the warrant is directed is near at hand and acting in the execution of his warrant.

Public to give  
information  
of certain  
matters

**17.** (1) Every person aware —

(a) of the commission of or the intention of any other person to commit any offence punishable under the following sections of the Penal Code: 121, 121A, 122, 123, 124A, 130, 143, 144, 145, 147, 148, 194, 232, 234, 302, 304, 307, 308, 382, 392,

393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, 460, 489A, 489D;

(b) of any sudden or unnatural death or death by violence or of any death under suspicious circumstances, or of the body of any person being found dead without its being known how such person came by death;

shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the officer in charge of the nearest police station or to a police officer or to the nearest District Officer of such commission or intention or of such sudden, unnatural or violent death or of the finding of such dead body as the case may be.

(2) If any person discovers any dead body and he has reason to believe that the deceased met with his death through an unlawful act or omission he shall not remove or in any way alter the position of the body except so far as is necessary for its safety.

(3) Every person failing to give such information as is required by this section shall be guilty of an offence under section 176 of the Penal Code.

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18. Every police officer and every District Officer shall forthwith communicate to the nearest magistrate or police officer in charge of a police station any information which he may have or obtain respecting —

Police officer bound to report certain matters

(a) the occurrence of any sudden or unnatural death or of any death under suspicious circumstances;

(b) the finding of the dead body of any person without its being known how such person came by his death.

## Chapter IV

## Arrest, Escape and Re-taking

Arrest, how  
made

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

(2) If such person forcibly resist the endeavour to arrest him or attempt to evade the arrest such officer or other person may use all means necessary to effect the arrest.

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

(4) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for 15 years.

Search of  
place entered  
by persons  
sought to be  
arrested

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

(2) If ingress to such place cannot be obtained under the preceding subsection it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity to escape, for a police officer or District Officer to enter such place and search therein, and in order to effect an entrance into such place to break open any outer or inner door or window of any place whether that of the person to be arrested or of any



other person if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

(3) If any place to be searched is an apartment in the actual occupancy of a woman (not being the person to be arrested), who, according to custom, does not appear in public, such person or police officer shall before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

21. Whenever a search for anything is or is about to be lawfully made in any place in respect of any offence all persons found therein may be lawfully detained until the search is completed, and they may, if the thing sought is in its nature capable of being concealed upon the person, be searched for it by or in the presence of a magistrate or of a police officer not below the rank of inspector or of a police officer in charge of a police station.

Search of persons in place searched under warrant

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

Power to break open any place for purposes of liberation

23. Whenever it is necessary to cause a woman to be searched the search shall be made by another woman with strict regard to decency.

Mode of searching women

24. Whenever a person is arrested —

Search of persons arrested

(a) by a police officer under a warrant which does not provide for the taking of bail or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail;

(b) without warrant or by a private person under a warrant and the person arrested cannot legally be admitted to bail or is unable to furnish bail;

the police officer making the arrest or, when the arrest is made by a private person, the police officer to whom such private person makes over the person arrested may search such person and place in safe custody all articles other than necessary weaving apparel found upon him, and any of such articles which there is reason to believe were the instruments or the fruits or other evidence of the crime may be detained until his discharge or acquittal.

25. *No section.*

Power to  
seize offen-  
sive weapons

26. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by law to produce the person arrested.

Search of  
person for  
name and  
address

27. Every person lawfully in custody, who by reason of incapacity from intoxication, illness, idiocy, lunacy or infancy is unable to give a reasonable account of himself, may be searched for the purpose of ascertaining his name and place of abode.

When police  
officer may  
arrest with-  
out warrant

28. (1) Any police officer or District Officer may without an order from a magistrate and without a warrant arrest —

(a) any person who has been concerned in any seizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned;

(b) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

(c) any person who has been proclaimed under section 49;

(d) any person in whose possession anything is found which may reasonably be suspected to be stolen or fraudulently obtained property and who may reasonably be suspected of having committed an offence with reference to such thing;

(e) any person who obstructs a police officer while in the execution of his duty or who has escaped or attempts to escape from lawful custody;

(f) any person reasonably suspected of being a deserter from the Royal Brunei Armed Forces or Royal Brunei Police Force or Gurkha Reserve Unit or any visiting force present for the time being in Brunei by the virtue of any written law or by virtue of any lawful arrangement made by or on behalf of Brunei;

(g) any person taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a seizable offence;

(h) any person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself;

(i) any person who is by repute an habitual robber, housebreaker or thief or an habitual receiver of stolen property knowing it to be stolen or who by repute habitually commits extortion or in order to commit extortion habitually puts or attempts to put persons in fear of injury;

(j) any person in the act of committing in his presence a breach of the peace;

(k) any person subject to the supervision of the police who fails to comply with the requirements of section 265 of this Code.

(2) Nothing in this section shall be held to limit or to modify the operation of any other law empowering a police officer or District Officer to arrest without a warrant.

Refusal to  
give name  
and residence  
or naming a  
residence out  
of Brunei

**29.** (1) When any person in the presence of a police officer or District Officer commits or is accused of committing a non-seizable offence and refuses on the demand of a police officer or District Officer to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such police officer or District Officer in order that his name or residence may be ascertained, and he shall, within 24 hours of the arrest, exclusive of the time necessary for the journey, be taken before the nearest magistrate unless before that time his true name and residence are ascertained, in which case such person shall be forthwith released on his executing a bond for his appearance before a Court if so required.

(2) When any person is thus taken before a magistrate such magistrate may either require him to execute a bond, with or without a surety, for his appearance before a Court if so required, or may order him to be detained in custody until he can be tried.

(3) When any person in the presence of a police officer or District Officer commits or is accused of committing a non-seizable offence and on the demand of a police officer or District Officer to give his name and residence gives as his residence a place not within Brunei, he may be arrested by such police officer or District Officer and shall be taken forthwith either before the nearest magistrate who

may require him to execute a bond, with or without a surety, for his appearance before a Court if so required, or may order him to be detained in custody until he can be tried, or before a police officer in charge of a police station who may require him to furnish a bond, with or without a surety, for his appearance before a Court if required.

**30.** A District Officer making an arrest without a warrant shall without unnecessary delay make over the person so arrested to the nearest police officer or in the absence of a police officer take such person to the nearest police station, and a police officer shall receive every such person into custody.

Person  
arrested by  
District  
Officer, how  
dealt with

**31.** For the purpose of arresting any person whom he has power to arrest without a warrant a police officer may pursue any such person into any part of Brunei.

Pursuit of  
offenders

**32.** (1) Any private person may arrest any person who, in his view, commits a non-bailable and seizable offence or who has been proclaimed under section 49 and shall without unnecessary delay make over the person so arrested to the nearest police officer or, in the absence of a police officer, take such person to the nearest police station.

Arrest by pri-  
vate persons

(2) If there is reason to believe that such person comes under the provisions of section 28 a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-seizable offence and he refuses on the demand of a police officer to give his name and residence or gives a name or residence which such officer has reason to believe to be false or gives a residence which is not within Brunei he shall be dealt with under section 29.

(4) If there is no reason to believe that he has committed an offence he shall be at once released.

(5) Any person who commits an offence on or with respect to the property of another may if his name and address are unknown be apprehended by the person injured or by any person who is using the property to which the injury is done, or by the servant of either of such persons or by any person authorised by or acting in aid of either of such persons, and may be detained until he gives his name and address and satisfies such person that the name and address so given are correct or until he can be delivered into the custody of a police officer.

(6) If any person lawfully apprehended under subsection (5) assaults or forcibly resists the person by whom he is so apprehended or any person acting in his aid he shall be guilty of an offence: Penalty, a fine of \$800.

How person  
arrested is to  
be dealt with

**33.** (1) A police officer making an arrest without a warrant shall without unnecessary delay and subject to the provisions herein as to bail or previous release take or send the person arrested before a Court of a Magistrate.

(2) No police officer shall detain in custody a person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable.

(3) Such period should not ordinarily exceed 24 hours exclusive of the time necessary for the journey from the place of arrest to the Court, unless there are exceptional circumstances which render this not reasonably practicable.

(4) Any police officer making an arrest under this section shall, unless the circumstances are such that the person arrested can be in no doubt with regard to the reason for his arrest, immediately such arrest is effected notify to the arrested person the reason for his arrest.

34. No person who has been arrested by a police officer shall be released except on his own bond or on bail or under the order in writing of a Judge or magistrate or officer in charge of a police station.

Release of person arrested

35. When any offence is committed in the presence of a magistrate he may himself arrest or authorise any person to arrest the offender, and may thereupon, subject to the provisions herein as to bail, commit the offender to custody.

Offence committed in magistrate's presence

36. Any magistrate may at any time arrest or authorise the arrest in his presence of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Arrest by or in presence of magistrate

37. If a person in lawful custody escapes or is rescued the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place and deal with such person as he might have done on the original taking.

Power on escape to pursue and re-take

38. The provisions of sections 20 and 22 shall apply to arrests under section 37 although the person making the arrest is not acting under a warrant and is not a police officer having authority to arrest.

Provisions of sections 20 and 22 to apply to arrests under section 37

## Chapter V

### Processes to Compel Appearance

#### *Summons*

39. (1) Every summons to appear issued by a Court under this Code shall be in writing and signed by a magistrate or, in the case of the Supreme Court, by the Chief Justice, a Judge or the Registrar, and it shall bear the seal of the Court.

Form of summons; by whom served

(2) Such summons shall ordinarily be served by a police officer or if the summons is in connection with an offence under an Act which it is the duty of a Government department to enforce, by an officer of such Government department. The Court issuing the summons may if it sees fit direct it to be served by any other person.

Service of  
summons

**40.** (1) The summons shall if practicable be served personally on the person summoned by tendering or delivering to him a copy thereof under the seal of the Court.

(2) Every person on whom a summons is so served shall if so required by the serving officer sign a receipt for the copy.

(3) In the case of a corporation the summons may be served on the secretary or other like officer of the same.

(4) Where the person to be summoned cannot by the exercise of due diligence be found the summons may be served by leaving a copy thereof for him with some adult member of his family or with his servant residing with him.

(5) Where the person summoned is in the service of the Government, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed, and such head shall thereupon cause the summons to be served in the manner provided by this section, and shall return it to the Court under his signature and duly indorsed by the person on whom it was served as required by subsection (2).

Procedure  
when person-  
al service  
cannot be  
effected

**41.** When the person to be summoned cannot by the exercise of due diligence be found and service cannot be effected as directed by section 40 (4) the serving officer shall in the presence of 2 witnesses affix a copy of the summons to some conspicuous part of the house or other place in which the person summoned ordinarily resides and in such case the summons, if the Court so directs either before or after such affixing, shall be deemed to have been duly served.



42. When a summons issued by a Court is served, an affidavit of such service purporting to be made before an officer duly authorised to administer an oath shall be admissible in evidence.

Proof of  
service

### *Warrant of Arrest*

43. (1) Every warrant of arrest issued by a Court under this Code shall be in writing and signed by a magistrate or, in the case of the Supreme Court, by the Chief Justice, a Judge or the Registrar, and it shall bear the seal of the Court.

Form of war-  
rant of arrest

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

44. (1) Any Court issuing a warrant for the arrest of any person may, in its discretion, direct by indorsement on the warrant that if such person execute a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

Court may by  
indorsement  
on warrant  
direct secur-  
ity to be  
taken

(2) The indorsement shall state —

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound;

(c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants, to whom directed

**45.** (1) A warrant of arrest shall ordinarily be directed to the officer in charge of police of the District in which it is issued and to all other police officers of Brunei, and any police officer may execute such warrant in any part of Brunei.

(2) The Court issuing a warrant may direct it to any person or persons by name not being police officers and all or any one or more of such persons may execute the same.

Notification of substance of warrant

**46.** Any warrant of arrest lawfully issued may be executed by any police officer at any time notwithstanding that the warrant is not in his possession at the time, but a police officer or other person executing a warrant of arrest shall notify the substance thereof to the person arrested, and shall, if so required by the person arrested, show him the warrant or a copy thereof under the seal of the Court issuing the warrant as soon as practicable after the arrest.

Person arrested to be brought before Court without delay

**47.** The police officer or other person executing a warrant of arrest shall, subject to the provisions of section 44 as to security, without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

**48.** *No section.*

#### *Proclamation and Attachment*

Proclamation for person absconding

**49.** (1) If the High Court or a Court of a Magistrate has reason to believe, whether after taking evidence or not, that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time.

(2) The proclamation shall be published as follows —

(a) it shall be publicly read in some conspicuous place of the town, village or kampong in or near which such person ordinarily resides;

(b) it shall be fixed to some conspicuous part of the house or other place in which such person ordinarily resides or to some conspicuous place of such town, village or kampong; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with and that the proclamation was published on such day.

**50.** (1) The Court issuing a proclamation under section 49 may at any time order the attachment of any property movable or immovable or both belonging to the proclaimed person. Attachment of property of person proclaimed

(2) If the property ordered to be attached consists of debts or other movable property the attachment shall be made —

(a) by seizure;

(b) by the appointment of a receiver;

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one of his behalf; or

(d) by all or any 2 of such methods as the Court thinks fit.

(3) If the property ordered to be attached be immovable the attachment under this section shall be made through the Land Officer of the district in which the property is situate; and upon the receipt of an order of attachment the said Land Officer shall execute the same —

(a) by taking possession;

(b) by the appointment of a receiver;

(c) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(d) by all or any 2 of such methods as he thinks fit.

(4) No such attachment of any land held under a title required by law to be registered shall take effect until the order of attachment is duly registered under the law for the registration of dealings with such land for the time being in force.

(5) If the proclaimed person does not appear within the time specified in the proclamation the property shall be at the disposal of the Government, but it shall not be sold until the expiration of 6 months from the date of the attachment unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

(6) Any person other than the person proclaimed may appear before the Court which made the order of attachment and claim, stating his title thereto, the property or any part thereof attached or ordered to be attached:

Provided that such claim is made within 3 months from the order of attachment.

(7) The Court shall record the claim so made and shall cause a copy thereof to be served upon the prosecutor together with a notice requiring him to attend before the Court on a day and at a time to be stated therein to show cause why such property, if attached, should not be released, or why such order of attachment should not be cancelled so far as it relates to the property so claimed.

(8) At the hearing the Court shall proceed to inquire into the truth and justice of the claim so made and to take such evidence as may be necessary.

(9) Such inquiry shall be made, as nearly as may be practicable, in the manner prescribed by Chapter XIX for conducting trials without the aid of assessors.

(10) The Court shall, if satisfied of the truth and justice of the claim, direct such property to be released or such order to be cancelled, or is satisfied as aforesaid as to part only of the claim shall direct such part to be released or so much of the order as relates thereto to be cancelled.

(11) The Court may in its discretion award to the claimant costs and such expenses as it thinks proper which shall be paid by Government.

**51.** If within 2 years from the date of the attachment any person whose property is or has been at the disposal of the Government under section 50 appears voluntarily or is apprehended and brought before the Court by whose order the property was attached and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property or, if the same has been sold, the nett proceeds of the sale or, if

Restoration  
of attached  
property

part only thereof has been sold, the nett proceeds of the sale and the residue of the property shall after satisfying there-out all costs incurred in consequence of the attachment, be delivered to him.

*Other Rules Regarding Summonses to Appear  
and Warrants of Arrest*

Issue of  
warrant in  
lieu of or in  
addition to  
summons

**52.** A criminal Court may in any case in which it is empowered to issue a summons for the appearance of any person other than an assessor issue, after recording its reasons in writing, a warrant for his arrest —

(a) if either before the issue of summons or after the issue of the same but before the time fixed for his appearance the Court sees reason to believe that he has absconded or will not obey the summons; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Service and  
execution in  
any part of  
Brunei

**53.** All summonses to appear and warrants of arrest issued by a magistrate may be served or executed as the case may be in any part of Brunei.

Power to take  
bond for  
appearance

**54.** When any person for whose appearance or arrest any Court is empowered to issue a summons or warrant is present in such Court it may require such person to execute a bond with or without sureties for his appearance in such Court.

Arrest on  
breach of  
bond for  
appearance

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

## Chapter VI

Processes to Compel the Production of Documents and  
Other Movable Property and for the Discovery of Persons  
Wrongfully Confined

**56.** (1) Whenever any Court or police officer making a police investigation considers that the production of any property or document is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer such Court may issue a summons or such officer a written order to the person in whose possession or power such property or document is believed to be requiring him to attend and produce it or to produce it at the time and place stated in the summons or order.

Summons to  
produce  
document or  
other thing

(2) Any person required under this section merely to produce any property or document shall be deemed to have complied with the requisition if he causes such property or document to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the provisions of any law relating to evidence for the time being in force or to apply to any postal article, telegram or other document in the custody of the postal or telegraph authorities.

**57.** If any such postal article, telegram or other document is in the opinion of the Court of Appeal or the High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code such Court may require the postal or telegraph authorities to deliver such postal article, telegram or other document to such person as it may direct.

Procedure  
as to postal  
articles, etc.

**58.** The provision of sections 39, 40, 41 and 42 shall apply in relation to summonses under this Chapter.

Provisions of  
sections 39 to  
42 to apply

*Search Warrants*

When search  
warrant may  
be issued

**59.** (1) Where any Court has reason to believe that a person to whom a summons under section 56 or a requisition under section 57 has been or might have been addressed will not or would not produce the property or document as required by such requisition, or where such property or document is not known to the Court to be in the possession of any person, or where the Court considers that the purposes of justice or of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection, the Court may issue a search warrant and the person to whom such warrant is directed may search and inspect in accordance therewith and with the provisions hereinafter contained.

(2) Nothing herein contained shall authorise any Court other than the Court of Appeal or the High Court to grant a warrant to search for a postal article, telegram or other document in the custody of the postal or telegraph authorities.

(3) A search warrant shall ordinarily be directed to the officer in charge of police of the District in which it is issued and to some other officers to be designated by name therein, and all or any of such police officers may execute such warrant.

(4) The Court issuing a search warrant may direct it to any person or persons by name, not being police officers, and all or any one or more of such persons may execute such warrant.

Power to res-  
trict warrant

**60.** The Court may if it thinks fit specify in the warrant the particular place or part thereof to which only the search or inspection shall extend, and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.



61. If a magistrate upon information and after such inquiry as he thinks necessary has reason to believe —

Search of place suspected to contain stolen property, forged documents, etc.

(a) that any place is used for the deposit or sale of stolen property, contraband goods, or of property unlawfully obtained; or

(b) that any place is used for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin or forged trade marks or instruments or materials for counterfeiting coin or stamps or for forging; or

(c) that any offence against any Act for the time being in force relating to gambling, pawnbrokers, opium, distillation of arrack or other spirit is being or is likely to be committed in any place; or

(d) that any offence against the Societies Act or any other Acts relating thereto for the time being in force, or any offence against any written law relating to the protection of women and girls, is being or is likely to be committed in any place; or

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(e) that any stolen property, contraband goods, or property unlawfully obtained, forged documents, false seals or counterfeit stamps or coin or forged trade marks or instruments or materials for counterfeiting coin or stamps or for forging or housebreaking are concealed, kept or deposited in any place;

he may by warrant authorise the person to whom it is directed to —

(i) enter, with such assistance as may be required, such place;

- (ii) search the same in the manner specified in the warrant in the presence, if practicable, of 2 or more inhabitants of the neighbourhood;
- (iii) take possession of any property, goods, documents, seals, stamps, coins or trade marks therein found which he reasonably suspects to be stolen, contraband, unlawfully obtained, forged, false or counterfeit and also of any such instruments and materials as aforesaid;
- (iv) convey such property, goods, documents, seals, stamps, coins, trade marks or materials before a Judge or magistrate, or guard the same on the spot until the offender is taken before a Judge or magistrate or otherwise dispose thereof in some place of safety; and
- (v) take into custody and bring before a Judge or magistrate every person found in such place who appears to be guilty of any offence under paragraphs (c) and (d) of this section or to have been privy to the deposit, sale or manufacture or keeping of any such property, goods, documents, seals, stamps, coins, trade marks, instruments or materials knowing or having reasonable cause to suspect the said property or goods to have been stolen or to be contraband or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, trade marks, instruments or materials to have been forged, falsified or counterfeited or the said instruments or materials to have been used or to be intended to be used for counterfeiting coin or stamps or for forging.

Form of  
search  
warrant

**62.** (1) Every search warrant issued by a Court under this Code shall be in writing and signed by a Judge or Registrar or by a magistrate, as the case may be, and it shall bear the seal of the Court.

(2) Every such warrant shall remain in force for a reasonable number of days to be specified in the warrant.

(3) Search warrants issued under this Code may be executed in any part of Brunei.

**63.** If any magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence he may issue a search warrant, and the person to whom such warrant is directed may search for the person confined; such search shall be made in accordance therewith and the person, if found, shall be immediately taken before a magistrate who shall make such order as in the circumstances of the case seems proper.

Search for persons wrongfully confined

**64.** (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in or being in charge of such place shall on demand of the officer or other person executing the warrant and on production of the warrant allow him free ingress thereto and afford all reasonable facilities for a search therein.

Persons in charge of closed places to allow search

(2) If ingress to such place cannot be so obtained the officer or other person executing the warrant may proceed in manner provided by section 20 (2).

**65.** The magistrate by whom a search warrant is issued may attend personally for the purpose of seeing that the warrant is duly exercised.

Magistrate issuing search warrant may attend at its execution

**66.** Any magistrate may orally direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant.

Magistrate may direct search in his presence

**67.** (1) If a police officer is informed that stolen property or contraband goods is or are concealed or lodged in any building or place, and that there is likelihood of the same being removed before a warrant under section 61 can be

Search without warrant

obtained, he may search such building or place without warrant and remove any such property or goods if —

(a) in the case of stolen property, the person claiming to be the owner or to be entitled to its possession, makes a declaration before him describing such property in detail and stating why he believes the same to have been stolen and to be in such building or place unlawfully, and accompanies such police officer in his search;

(b) in the case of contraband goods, he receives information from any Customs officer that certain contraband goods are believed to be in such building or place.

(2) If a Customs officer is informed, and has good reason to believe such information, that contraband goods are concealed or lodged in any building or place and he has good reason to believe that such goods are likely to be removed before a warrant under section 61 can be obtained, he may search such building or place and remove any contraband goods found therein.

**68.** *No section.*

List of all things seized to be made and signed

**69.** A list of all things seized in the course of a search made under this Chapter and of the places in which they are respectively found shall be prepared by the officer or other person making the search and signed by him.

Occupant may be present at search

**70.** The occupant of the place searched, or some person in his behalf, shall in every instance be permitted to attend during the search, and a copy of the list prepared and signed under this section shall be delivered to such occupant or person at his request.

PART IV  
PREVENTION OF OFFENCES

Chapter VII

Security for Keeping the Peace and for Good Behaviour

**71.** (1) Whenever any person is convicted of any offence which involves a breach of the peace or of abetting the same or of committing criminal intimidation or criminal trespass or of being a member of an unlawful assembly and the Court before which such person is convicted is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may at the time of passing sentence on such person or in lieu of any sentence order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period in each instance as it thinks fit to fix, not exceeding 2 years if ordered by the High Court or one year if ordered by a Court of a Magistrate.

Security for  
keeping the  
peace on  
conviction

(2) If the conviction is set aside on appeal or otherwise the bond so executed shall become void.

**72.** Whenever it appears to a magistrate that any person is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace, such magistrate may in manner hereinafter provided require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the magistrate thinks fit to fix.

Security for  
keeping the  
peace in  
other cases

**73.** Whenever it appears to a magistrate that —

(a) any person is behaving in a suspicious manner and that there is reason to believe such person is behaving in such manner with a view to committing an offence; or

Security for  
good be-  
haviour from  
suspected  
persons, vag-  
rants and per-  
sons dissemi-  
nating sedi-  
tious matter

(b) any person has no ostensible means of subsistence or cannot give a satisfactory account of himself; or

(c) any person either orally or in writing disseminates or attempts to disseminate or in any way abets the dissemination of —

(i) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Penal Code or under the Sedition Act; or

(ii) any matter concerning a public servant which amounts to criminal intimidation or defamation under the Penal Code; or

(d) any person has in his possession or custody any instrument which may be used for housebreaking or is armed with any lethal weapon and is unable to explain satisfactorily his movements or to account for the possession or custody of the housebreaking instruments or lethal weapon;

such magistrate may in manner hereinafter provided require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not exceeding one year as the magistrate thinks fit to fix.

Security for  
good be-  
haviour from  
habitual  
offenders

**74.** Whenever it appears to a magistrate that any person —

(a) is an habitual robber, housebreaker or thief or an habitual receiver of stolen property knowing the same to have been stolen;

(b) habitually commits extortion or, in order to the committing of extortion, habitually puts or attempts to put persons in fear of injury;

(c) is an habitual protector or harbourer of thieves;

(d) is an habitual aider in the concealment or disposal of stolen property; or

(e) is a notorious bad liver or is a dangerous character;

such magistrate may in manner hereinafter provided require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not exceeding one year as such magistrate thinks fit to fix.

75. (1) When a magistrate acting under any of the last 3 preceding sections deems it necessary to require any person to show cause under such section he shall, if such person has not been arrested without warrant and brought before the Court for the purpose of the inquiry hereinafter mentioned, issue a summons requiring him to appear and show cause or, when such person is in custody but not present in Court, a warrant directing the officer in whose custody he is to produce him before the Court.

Summons or  
warrant if  
required

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

76. Every summons or warrant issued under the last preceding section shall contain a brief statement of the substance of the information on which such summons or warrant was issued, and shall state the amount of the bond to be

Form of  
summons or  
warrant

executed, the term for which it is to be in force and the number, character and class of sureties, if any, required.

Inquiry to be held

77. (1) When any person appears or is brought before a magistrate in compliance with a summons or in execution of a warrant issued under section 75 the magistrate shall proceed to inquire into the truth of the information on which he has acted and to take such further evidence as may be necessary.

(2) When any person has been arrested without warrant and brought before a magistrate for the purpose of being bound over either to keep the peace or to be of good behaviour the magistrate shall instead of requiring him to show cause explain to such person the purport and object of the inquiry and shall take such evidence as may be produced on either part.

(3) An inquiry under this section shall be made as nearly as may be practicable in the manner hereinafter prescribed for conducting summary trials before magistrates except that no charge need be framed.

(4) For the purpose of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

Order to give security

78. If upon such inquiry it is proved that it is necessary for keeping the peace or maintaining good behaviour as the case may be that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the magistrate shall make an order accordingly:

Provided that —

(a) no person shall be ordered to give security of a nature different from or for an amount larger than or for a period longer than that specified in



the summons or warrant issued under section 75, if any;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive, but shall be such as to afford the person against whom the order is made a fair chance of complying with it;

(c) when the person in respect of whom the inquiry is made is not competent to contract the bond shall be executed only by his sureties.

**79.** If on an inquiry under section 77 it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond the magistrate shall make an entry on the record to that effect and if such person is in custody only for the purposes of the inquiry, shall release him or, if such person is not in custody, shall discharge him.

Discharge  
of persons  
informed  
against

*Proceedings in all Cases Subsequent to Order to Furnish Security*

**80.** (1) If any person in respect of whom an order requiring security is made under sections 71 or 78 is at the time such order is made sentenced to or undergoing a sentence of imprisonment the period for which such security is required shall commence on the expiration of such sentence.

Commence-  
ment of  
period for  
which secur-  
ity is required

(2) In other cases such period shall commence on the date of such order.

**81.** The bond to be executed by any person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the abetment of any offence punishable with

Contents of  
bond

imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties

**82.** A Court may in its discretion refuse to accept any particular person or persons offered as surety for good behaviour under this Chapter.

Imprisonment in default of sureties

**83.** (1) If any person ordered to give security under section 71 or 78 does not give such security on or before the date on which the period for which such security is to be given commences he may be committed to prison, or if he already is in prison may be detained in prison, until such period expires or until within such period he gives such security to the Court which made the order requiring it or to the officer in charge of the prison in which he is detained.

(2) If such person is unable or unwilling to execute such bond but is willing to leave Brunei and not return thereto for such period as the Court shall approve, the Court may, subject to the execution of any sentence of imprisonment to which he has been sentenced, order accordingly.

(3) Pending the departure of the offender from Brunei he may be remanded in custody.

Power to release person imprisoned for failing to give security

**84.** When a Court is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person the Court may order such person to be discharged:

Provided that the Court of a Magistrate shall not exercise this power except in cases where the imprisonment is under its own order.

**85.** Whenever a magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by a Court superior to his Court may be released without the hazard mentioned in section 84 such magistrate shall make an immediate report of the case for the orders of the superior Court, and such Court may if it thinks fit order such person to be discharged.

Magistrate to report in cases in which the security has been ordered by a superior Court

**86.** (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a magistrate to cancel any bond executed under this Chapter.

Discharge of security

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

(3) When such person appears or is brought before the magistrate he shall cancel the bond and shall order such person to give for the unexpired portion of the term of the bond fresh security of the same description as the original security.

(4) Every such order shall for the purposes of sections 81, 82, 83 and 84 be deemed to be an order made under sections 71 or 78 as the case may be.

## Chapter VIII

### Unlawful Assemblies

**87.** A magistrate, the Commissioner of Police or any police officer not below the rank of Inspector or officer in charge of a police district or police station may command any unlawful assembly or any assembly of 5 or more persons likely to cause a disturbance of the public peace to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Unlawful assembly may be ordered to disperse by magistrate, etc.

When unlawful assembly may be dispersed by use of civil force

**88.** If upon being so commanded any such assembly does not disperse, or if, without having been commanded to disperse it conducts itself in such a manner as to show a determination not to disperse, a magistrate, the Commissioner of Police or any police officer not below the rank of Inspector or officer in charge of a police district or police station may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer, soldier, sailor or airman of the Royal Brunei Armed Forces or of any armed forces lawfully serving within Brunei, for the purpose of dispersing such assembly and if necessary arresting and confining the persons who form part of it in order to disperse such assembly or that they may be punished according to law.

Use of military force

**89.** If any such assembly cannot be otherwise dispersed and if it is necessary for the public security that it should be dispersed a magistrate or a gazetted police officer may cause it to be dispersed by military force.

Magistrate may require any officer in command of troops to disperse unlawful assembly

**90.** (1) When a magistrate or a gazetted police officer determines to disperse any such assembly by military force he may require any commissioned or non-commissioned officer in command of any soldiers, sailors or airmen of the Royal Brunei Armed Forces or of any armed forces lawfully serving within Brunei to disperse such assembly by military force and to arrest and confine such persons forming part of it as the magistrate or the gazetted police officer may direct or as it may be necessary to arrest and confine in order to disperse the assembly or that they may be punished according to law.

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons.

**91.** When the public security is manifestly endangered by any such assembly, and when neither a magistrate nor a police officer, empowered by section 90 to require such an assembly to be dispersed by military force, can be communicated with, any commissioned officer of the Royal Brunei Armed Forces or of any armed forces lawfully serving within Brunei may disperse such assembly by military force and may arrest and confine any person forming part of it in order to disperse such assembly or that they may be punished according to law; but if while he is acting under this section it becomes practicable for him to communicate with any magistrate or gazetted police officer he shall do so and shall thenceforward obey the instructions of such magistrate or police officer as to whether he shall or shall not continue such action.

When commissioned officer may disperse unlawful assembly by military force

**92.** No prosecution against any magistrate or police officer or any officer, soldier, sailor or airman of any armed forces, for any act purporting to be done under this Chapter, shall be instituted in any criminal Court except with the sanction of His Majesty in Council; and

Protection against prosecution for acts done under this Chapter

(a) no magistrate or police officer acting under this Chapter in good faith;

(b) no person doing any act in good faith in compliance with a requisition under section 88 or 90;

(c) no inferior officer, soldier, sailor or airman doing any act in obedience to any order which he was bound to obey;

(d) no officer acting under section 91 in good faith; shall be deemed to have thereby committed an offence.

## Chapter IX

## Public Nuisances

Magistrate  
may make  
conditional  
order for  
removal of  
nuisance

**93.** (1) Whenever a magistrate considers on receiving a report or other information and on taking such evidence, if any, as he thinks fit that —

(a) any unlawful obstruction or nuisance should be removed from any way, harbour, lake, river or channel which is or may be lawfully used by the public or from any public place;

(b) any trade or occupation or the keeping of any goods or merchandise by reason of its being injurious to the health or physical comfort of the community should be suppressed or removed or prohibited;

(c) the construction of any building or the disposal of any substance likely to occasion conflagration or explosion should be prevented or stopped;

(d) any building or tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by and that in consequence its removal, repair or support is necessary; or

(e) any tank, well or excavation adjacent to any such way as aforesaid or to any public place should be fenced in such a manner as to prevent danger arising to the public;

such magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such

building, tree, substance, tank, well or excavation, within a time to be fixed in the order to —

- (i) remove such obstruction or nuisance;
- (ii) suppress or remove such trade or occupation;
- (iii) remove such goods or merchandise;
- (iv) prevent or stop the construction of such building;
- (v) remove, repair or support such building;
- (vi) lop or fell such tree;
- (vii) alter the disposal of such substance;
- (viii) fence such tank, well or excavation,

or appear before such magistrate at a time and place to be fixed by the order and move to have the order set aside or modified in manner hereinafter provided.

(2) For the purposes of this section a “public place” includes also property belonging to the Government and grounds left unoccupied for sanitary or recreative purposes.

94. (1) The order and any notice or order given or made under this Chapter shall, if practicable, be served on the person against whom it is made in manner in this Code provided for service of a summons.

Such order to be served or notified

(2) If such order cannot be served a copy thereof shall be posted at such place as may be fittest for conveying the information to such person.

95. The person against whom such order is made shall —

- (a) perform within the time specified in the order that act directed thereby; or

Person against whom such order is obeyed or made to appear and show cause

(b) appear in accordance with such order and show cause against the same.

Consequence  
of failure to  
do so

**96.** If such person does not perform such act or appear and show cause as required by section 95 the order shall be made absolute.

Procedure on  
appearance  
to show cause

**97.** (1) If such person appears and shows cause against the order the magistrate shall take evidence in the matter.

(2) If the magistrate is satisfied that the order is not reasonable and proper no further proceedings shall be taken in the case.

(3) If the magistrate is not satisfied the order shall be made absolute.

Procedure  
on order  
being made  
absolute

**98.** When an order has been made absolute under section 96 or 97 the magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in such notice and inform him that in case of disobedience he will be liable to the penalty prescribed in that behalf in section 188 of the Penal Code:

Provided that if such person be a corporation it shall be liable only to the fine prescribed by the said section.

Consequence  
of disobedi-  
ence to order

**99.** (1) If such order is not performed within the time fixed the magistrate may cause it to be performed and may recover the costs of performing it either by sale of the buildings, goods or other property removed by his order or by the distress and sale of any other movable property of such person.

(2) No suit shall lie in respect of anything done in good faith under this section.



**100.** (1) If the magistrate making an order under section 93 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public he may issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury pending the final decision of the case.

Injunction  
pending final  
decision

(2) In default of such person forthwith obeying such injunction the magistrate may use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a magistrate under this section.

**101.** A magistrate may order any person not to repeat or continue a public nuisance as defined in the Penal Code or any other law in force for the time being.

Power to pro-  
hibit repeti-  
tion or con-  
tinuance  
of public  
nuisance  
Cap. 22

## Chapter X

### Temporary Orders in Urgent Cases of Nuisance

**102.** (1) In cases where in the opinion of a magistrate immediate prevention or speedy remedy is desirable such magistrate may by a written order stating the material facts of the case and served in manner provided in section 94 direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management if such magistrate considers that such direction is likely to prevent or tends to prevent obstruction, annoyance or injury to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

Power to  
issue order  
absolute at  
once in ur-  
gent cases

(2) An order under this section may in cases of emergency or in cases where the circumstances do not admit the serving in due time of notice upon the person against whom the order is made be made *ex parte*.

(3) An order under this section may be directed to a particular person or to the public generally when frequenting or visiting a particular place.

(4) Any magistrate may rescind or alter any order made under this section by himself or his predecessor in office.

(5) No order under this section shall remain in force for more than one month from the making thereof.

## Chapter XI

### Disputes as to Immovable Property

Procedure  
where dis-  
pute concern-  
ing land, etc.,  
is likely to  
cause breach  
of peace

**103.** (1) Whenever a magistrate is satisfied, from a police report or other information, that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court within a time to be fixed by such magistrate and to make oral or written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section and of section 105 the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land and the rents or profits of any such property.

(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the magistrate directs, and at least one copy shall, if reasonably practicable, be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The magistrate shall then, without reference to the merits of the claims of any such parties to a right to

possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and if possible decide whether any and which of the parties is then in actual possession of the said subject:

Provided that —

(a) if it appears to the magistrate that any party has, within 2 months next before the date of such order, been forcibly and wrongfully dispossessed he may treat the party so dispossessed as if he had been in possession at such date;

(b) if the magistrate considers the case one of emergency he may at any time attach the subject of dispute pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend from showing that no such dispute as aforesaid exists or has existed, and in such case the magistrate shall cancel the order and all further proceedings therein shall be stayed.

(6) If the magistrate decides that one of the parties is then in actual possession of the said subject he shall issue an order declaring such party to be entitled to retain possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction.

(7) Proceedings under this section shall not abate by reason only of the death of any of the parties thereto.

**104.** If the magistrate decides that none of the parties is then in actual possession or is unable to satisfy himself as to which of them is then in actual possession of the subject of dispute he may attach it until a competent civil court has

Power to  
attach subject  
of dispute

determined the rights of the parties thereto or the persons entitled to possession thereof.

Disputes concerning rights over land or water

**105.** (1) Whenever a magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any land or water he may inquire into the matter and may if it appears to him that such right exists make an order permitting such thing to be done or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done or claiming that such thing may be done obtains the decision of a competent civil court adjudging him to be entitled to prevent the doing of or to do such thing as the case may be.

(2) No order shall be made under this section permitting the doing of anything where the right to do such thing is exercisable at all times of the year unless such right has been exercised within 3 months next before the institution of the inquiry or, where the right is exercisable only at particular seasons, unless the right has been exercised during the season next before such institution.

Order as to costs

**106.** (1) When any costs have been incurred by any party to a proceeding under this Chapter for witnesses the magistrate giving a decision under sections 103, 104 or 105 may assess such costs and direct by whom the same shall be paid, whether by such party or by any other party to the proceeding and whether in whole or in part or proportion.

(2) All costs so directed to be paid may be recovered as if they were fines.

## Chapter XII

### Preventive Action of the Police

Police to prevent offences

**107.** Every police officer may interpose for the purpose of preventing and shall to the best of his ability using all lawful means prevent the commission of any offence.

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

Information of design to commit offences

**109.** A police officer knowing of a design to commit any seizable offence may arrest without orders from a magistrate and without a warrant the person so designing if it appears to such officer that the commission of the offence cannot otherwise be prevented.

Arrest to prevent such offences

**110.** A police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Prevention of injury to public property

## PART V

### INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

#### Chapter XIII

**111.** (1) When information is received at a police station relating to the commission of an offence, being an offence of which it appears that no previous information has been received in the station, the officer in charge of the police station or a subordinate officer whose duty it is to receive reports shall proceed according to one of the following subsections.

Information of offences

(2) If the information is in writing, he shall forthwith mark on it the date and time of receipt, and, if practicable, the name and address of the person (other than a postal messenger) by whom it was delivered, and if it purports to be signed by the informant, he shall file it as a report and record the facts in a book kept for this purpose.

(3) If the information is given orally and he considers it practicable to reduce it to writing forthwith, he shall record or cause to be recorded in a book kept for this purpose a report containing the name and address of the informant, the date and time of his arrival at the station, the substance of the information and such other particulars as the nature of the case may require, and such report shall be signed by the informant, (or if he refuses to sign a note of such refusal shall be made with any reasons given for such refusal), by the recording officer and by the interpreter, if any.

(4) If the information is given orally and it appears to him impracticable to proceed forthwith under subsection (3) he shall immediately make a note of first information in the station diary, and, if an investigation is to proceed, as soon thereafter as circumstances permit, a fuller statement by the informant shall be recorded under the provisions of subsection (3).

Duty of  
Police to  
investigate  
offences

**112.** Subject to the provisions of any written law and to any lawful order or direction given to him in that behalf, every police officer shall investigate any offence the commission of which he has reason to suspect and to take such action as he deems necessary to prevent the repetition or aggravation of any offence:

Provided that the Public Prosecutor may direct that the investigation of such non-seizable offences as may be specified in such direction need not be undertaken by the police but nothing herein contained shall be deemed to preclude any police officer from making such investigation as may be necessary to satisfy himself that the offence is an offence to which such direction relates.

Public not to  
have right to  
compel police  
officer to  
investigate  
alleged  
offences

**113.** Nothing in this Chapter shall be deemed to confer any right upon any member of the public to compel any police officer to investigate whether an offence and, if so, what offence has been committed but it shall be the duty of any police officer making an investigation under this Chap-

ter upon request in that behalf by the informant to inform him whether the police propose to prosecute and, if so, in respect of what offences.

**114.** Every police officer making an investigation under this Chapter if in charge of a police station or not below the rank of lance-corporal may exercise the powers given by sections 115, 120 and 121.

Exercise of special powers

**115.** (1) A police officer making an investigation under this Chapter may by order in writing require the attendance before himself of any person who from the information given or otherwise appears to be acquainted with the circumstances of the case, and such person shall attend as so required.

Police officer's power to require attendance of witnesses

(2) If any such person refuses to attend as so required such police officer may report such refusal to a magistrate who may thereupon in his discretion issue a summons or warrant to secure the attendance of such person as required by such order aforesaid.

**116.** (1) A police officer making a police investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

Examining of witnesses by police

(2) Such person shall be bound to state truly the facts and circumstances with which he is acquainted concerning the case save only that he may decline to make with regard to any fact or circumstance a statement which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) A statement made by any person under the provisions of this section shall be read over to him and shall, after correction if necessary, be signed by him.

Statement to  
police officers

**117.** (1) In any criminal proceedings any statement made by any person, whether it amounts to a confession or not or is oral or in writing, made at any time, whether before or after that person is charged and whether in the course of a police investigation or not, by that person to or in the hearing of any police officer shall be admissible in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) The court shall admit under subsection (1) a statement made by an accused, only if the prosecution satisfies the court that the statement was voluntary, that is to say that it was not obtained by violence, inducement, threat or oppression by a person in authority.

(3) Where any person is charged with an offence or officially informed that he may be prosecuted for it, he shall be served with a notice in writing, which shall be explained to him, to the following effect —

“You have been charged with/informed that you may be prosecuted for —

(set out the charge)

Do you wish to say anything in answer to the charge? If there is any fact on which you intend to rely in your defence in court, you are advised to mention it now. If you fail to do so before your trial, the court may draw such inferences, adverse to you, as it may think proper. If you wish to mention any fact now, and you would like it written down this will be done.”

(4) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (3) shall be construed as a statement obtained by any violence, inducement, threat or oppression as is described in subsection (2), if it is otherwise voluntary.



(5) In subsection (2) “officially informed” means informed by a police officer or any other person charged with the duty of investigating offences or charging offenders.

**117A.** (1) In any trial the accused shall not without the leave of the court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi. Notice of alibi

(2) Without prejudice to subsection (1), on any such trial the accused shall not without the leave of the court call any other person to give evidence in support of an alibi unless —

(a) the notice under subsection (1) includes the name and address of the witness or, if the name and address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the witness;

(b) if the name or the address is not included in that notice, the court is satisfied that the accused, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained;

(c) if the name or the address is not included in that notice, but the accused subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness, he forthwith gives notice of the name, address or other information, as the case may be;

(d) if the accused is notified by or on behalf of the prosecutor that the witness has not been traced by the name or at the address given, he forthwith gives notice of any such information, which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

(3) The court shall not refuse leave under this section if it appears to the court that the accused was not informed of the requirements of this section.

(4) Any evidence tendered to disprove an alibi may, subject to any directions by the court as to the time it is to be given, be given before or after evidence is given in support of the alibi.

(5) Any notice purporting to be given under this section on behalf of the accused by his advocate or solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the accused.

(6) A notice under subsection (1) shall either be given in court during, or at the end of, the committal proceedings or be given in writing to the prosecutor, and a notice under subsection (2) (c) or (d) shall be given in writing to the prosecutor.

(7) A notice required by this section to be given to the prosecutor may be given by delivering it to the Attorney General or by leaving it at the Attorney General's office, or by sending it by registered post addressed to the Attorney General at his office.

(8) In this section —

“evidence in support of an alibi” means evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been at the place where the offence is alleged to have been committed at the time of its alleged commission;

“the prescribed period” means the period expiring not less than 10 days prior to the commencement of the trial.

(9) In computing the prescribed period there shall be disregarded any day which is a public holiday.

**117B.** (1) In any criminal proceedings, a written statement by any person shall, subject to the conditions contained in subsection (2), be admissible as evidence to the like extent as oral evidence to the like effect by that person.

Proof by written statement

(2) A statement may be tendered in evidence under subsection (1) if —

(a) the statement purports to be signed by the person who made it;

(b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief;

(c) before the hearing at which the statement is tendered in evidence, a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings; and

(d) none of the other parties or their advocates or solicitors, within 14 days from the service of the copy of the statement, serves a notice on the party so proposing objecting to the statement being tendered in evidence under this section;

Provided that paragraphs (c) and (d) shall not apply if the parties agree before or during the hearing that the statement shall be so tendered.

(3) If a statement tendered in evidence under subsection (1) —

(a) is made by a person under the age of 18, it shall give his age;

(b) is made by a person who cannot read it, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read;

(c) refers to any other document as an exhibit, the copy served on any other party to the proceedings under subsection (2) (c) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party on whom it is served to inspect that document or a copy thereof.

(4) Notwithstanding that a written statement made by any person may be admissible as evidence by virtue of this section —

(a) the party by whom or on whose behalf a copy of the statement was served may call the person making the statement to give evidence; and

(b) the court may, of its own motion or on the application of any party to the proceedings either before or during the hearing, require the person making the statement to attend before the court and give evidence.

(5) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court otherwise directs, be read aloud at the hearing and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

(6) Any document or object referred to as an exhibit and identified in a written statement admitted in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

(7) A document required by this section to be served on any person may be served —

(a) by delivering to him or to his solicitor; or

(b) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or by sending it by registered post addressed to the secretary or clerk of that body at that office.

(8) In this section “court” includes a magistrate.

**117C.** (1) Subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the prosecutor or accused and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

Proof by formal admission

(2) An admission under this section —

(a) may be made before or during the proceedings;

(b) if made otherwise than in court, shall be in writing;

(c) if made in writing by an individual, shall purport to be signed by the person making it and, if so made by a body corporate, shall purport to be signed by a director or manager, or the secretary or clerk, or some other similiar officer of the body corporate;

(d) if made on behalf of an accused who is an individual, shall be made by his advocate or solicitor;

(e) if made at any stage before the trial by an accused who is an individual, must be approved by his advocate or solicitor (whether at the time it was made or subsequently) before or during the proceedings in question.

(3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter (including any appeal or trial).

(4) An admission under this section may with the leave of the court be withdrawn in the proceedings for the purpose of which it is made or any subsequent criminal proceedings relating to the same matter.

(5) In this section “court” includes a magistrate.

Circumstances in which inferences may be drawn from accused's failure to mention particular facts when charged, etc.

**118.** (1) Where in any criminal proceedings against a person for an offence evidence is given that the accused, on being charged with the offence or officially informed that he might be prosecuted for it, failed to mention any such fact, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention when so charged or informed, as the case may be, the court, in determining whether to commit the accused for trial or whether there is a case to answer, and the court, in determining whether the accused is guilty of the offence charged, may draw such inferences adverse to the accused from the failure as appear proper, and the failure may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

(2) In subsection (1), “officially informed” means informed by a police officer or any other person charged with the duty of investigating offences or charging offenders.

(3) Nothing in subsection (1) or (2) shall in any criminal proceedings —

(a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from those subsections; or

(b) be taken to preclude the drawing of any inference from any such silence or other reaction of the accused which could be drawn apart from those subsections.

(4) Subsections (1) and (2) shall not apply as regards a failure to mention a fact if the failure occurred before the 1st day of January 1985.

**119.** (1) Any magistrate may record any statement or confession made to him at any time before the commencement of the inquiry or trial.

Power to record statements and confessions

(2) Such statement or confession shall be recorded in full in writing by the magistrate to whom it is made and shall then be forwarded to the magistrate, if different, before whom the case is to be inquired into or tried.

(3) No magistrate shall record any such statement or confession unless upon questioning the person making it he has reason to believe that it was made voluntarily; and when he records any confession he shall make a memorandum at the foot of such record to the following effect —

I believe that this confession was voluntarily made. It was taken in my presence and hearing and was read over to the person making it and admitted by him to be correct and it contains a full and true account of what he said.

(Signed) A.B.,

*Magistrate*

(4) The taking and recording of any statement or confession shall not disqualify a magistrate who has so taken and recorded the same from inquiring into or trying the case.

(5) No oath or affirmation shall be administered to any person making a statement or confession as in this section provided.

Search by  
police officer

**120.** (1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that any evidence or thing necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place and that such evidence or thing cannot in his opinion be otherwise obtained without undue delay, such officer may search or cause search to be made for such evidence or thing in any place.

(2) Such officer shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing specifying the thing for which search is to be made and the place to be searched, and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to search warrants shall, so far as may be, apply to a search made under this section.

Police officer  
may require  
bond for  
appearance  
of com-  
plainant and  
witnesses

**121.** (1) If upon a police investigation made under this Chapter it appears to the officer making such investigation that there is sufficient evidence or reasonable ground of suspicion to justify the commencement or continuance of criminal proceedings against any person, such officer may



require the complainant, if any, and so many of the persons who appear to such officer to be acquainted with the circumstances of the case, as he thinks necessary, to execute a bond to appear before a Court therein named and give evidence in the matter of the charge against the accused.

(2) If any complainant or witness refuses to execute such bond such officer shall report the same to the Court which may thereupon in its discretion issue a warrant or summons to secure the attendance of such complainant or witness before itself to give evidence in the matter of the charge against the accused.

**122.** Every police officer making a police investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary setting forth — Diary of proceedings in police investigation

(a) the time at which the order, if any, for investigation reached him;

(b) the time at which he began and closed the investigation;

(c) the place or places visited by him; and

(d) a statement of the circumstances ascertained through his investigation.

**123.** Every investigation under this Chapter shall be completed without unnecessary delay and if, as a result of the investigation, it is desired to institute criminal proceedings against any person the officer in charge of the case may, subject to any directions of the Public Prosecutor, forward to a competent Court having jurisdiction a draft charge setting out the details of the offence with which the person is to be charged. Report of police officer

PART VI  
PROCEEDINGS IN PROSECUTIONS

Chapter XIV

The Jurisdiction of Criminal Courts in Inquiries  
and Trials

**124–130.** *No sections.*

*Conditions Requisite for Initiation of Proceedings*

Power to take  
cognisance of  
offences

**131.** Subject to the provisions of this Code a Judge or magistrate may take cognisance of an offence —

(a) upon receiving a complaint as provided by section 133 of this Code;

(b) upon his own knowledge or suspicion that such offence has been committed;

(c) on any person being brought before him in custody without process accused of having committed an offence which such Judge or magistrate has jurisdiction either to inquire into or to try.

Sanction re-  
quired for  
prosecution  
for certain  
offences

**132.** (1) No magistrate shall take cognisance of —

(a) any offence punishable under sections 121, 121A, 122, 123 or 505 of the Penal Code, except with the previous sanction of the Public Prosecutor;

(b) any offence punishable under sections 172 to 188 of the Penal Code, except with the previous sanction of the Public Prosecutor or on the complaint of the public servant concerned or of some public servant to whom he is subordinate;

(c) any offence punishable under sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, 228 or 228A of the Penal Code, except with the previous sanction of a Judge or the Public Prosecutor or, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint of such Court, or of some other Court to which such Court is subordinate;

(d) any offence described in section 463 or punishable under sections 471, 475 or 476 of the Penal Code, except with the previous sanction of a Judge or the Public Prosecutor or, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document given in evidence in such proceeding, except on the complaint of such Court, or of some other Court to which such Court is subordinate;

(e) any offence punishable under sections 493, 494, 495 or 496 of the Penal Code, except upon a complaint made by some person aggrieved by such offence or by a Judge or the Public Prosecutor.

(2) The provisions of subsection (1) with reference to the offences named therein shall apply also to the abetment of such officers and to attempts to commit them.

## Chapter XV

### Complaints

**133.** (1) When a Judge or magistrate takes cognisance of an offence on complaint the Judge or magistrate shall at once examine the complainant upon oath or affirmation and the substance of the examination shall be reduced to writing and shall be signed by the complainant and also by the Judge or magistrate.

Examination  
of com-  
plainant

(2) Where the complaint is made in writing by a Court or by a public servant acting or purporting to act in his official capacity the Judge or magistrate need not examine the complainant, but he may, if he considers it necessary, examine such public servant either on oath or affirmation or otherwise.

Postpone-  
ment of issue  
of process

**134.** If the Judge or magistrate sees reason to doubt the truth of a complaint of an offence of which he is authorised to take cognisance he may, when the complainant has been examined, record his reason for doubting the truth of the complaint and may then postpone the issue of process for compelling the attendance of the person complained against and either inquire into the case himself or direct some police officer to make inquiries for the purpose of ascertaining the truth or falsehood of the complaint and report to him the result of such inquiries.

Dismissal of  
complaint

**135.** (1) The Judge or magistrate before whom a complaint is made may dismiss the complaint if after examining the complainant and recording his examination and considering the result of the inquiry, if any, made under the last preceding section there is in his judgment no sufficient ground for proceeding.

(2) The Judge or magistrate if he dismisses the complaint shall record his reasons for so doing.

## Chapter XVI

### The Commencement of Proceedings

Issue of  
process

**136.** (1) If in the opinion of a Judge or magistrate taking cognisance of an offence there is sufficient ground for proceeding and the case appears to be one in which according to the fourth column of the First Schedule a summons should issue in the first instance he shall issue a summons for the attendance of the accused.

(2) If the case appears to be one in which according to that column a warrant should issue in the first instance he

may issue a warrant or if he thinks fit a summons for causing the accused to be brought or to appear at a certain time before himself or some other Judge or magistrate having jurisdiction.

(3) Nothing in this section shall be deemed to affect the provisions of section 52.

**137.** (1) Whenever a Judge or magistrate issues a summons he may, if he sees reason to do so, dispense with the personal attendance of the accused.

Personal attendance of accused may be dispensed with

(2) The Judge or magistrate inquiring into or trying the case may in his discretion at any stage of the proceedings direct the personal attendance of the accused, and if necessary enforce such attendance in manner hereinbefore provided.

## Chapter XVII

### Preliminary Inquiries into Cases Triable by the High Court

**138.** (1) In the case of persons charged with any of the following offences, that is to say —

Procedure in inquiries preparatory to commitment

(a) offences against the State, as defined in Chapter VI of the Penal Code,

(b) murder,

(c) rape,

(d) unnatural offences,

a preliminary inquiry shall be held by a magistrate with a view to the committal of the accused person for trial before the High Court.

(2) A preliminary inquiry shall also be held unless the Public Prosecutor otherwise directs whenever a person is accused of an offence which the Public Prosecutor has by

declaration published in the *Gazette* declared to be an offence to which this subsection applies or if, in the case of an offence other than the foregoing if which a person may be accused, the Public Prosecutor directs that a preliminary inquiry shall be held in respect of such offence.

(3) All other cases shall be tried summarily.

(4) The provision of section 141 shall not be deemed to authorise a magistrate to try any charge relating to an offence in respect of which a preliminary inquiry requires to be held by virtue of this section.

**139.** *No section.*

*Procedure at Preliminary Inquiries*

Hearing and  
taking of evi-  
dence for  
prosecution

**140.** (1) When the accused person is brought before him the magistrate shall proceed to hear the case for the prosecution and to take all such evidence as may be produced in support thereof and such other evidence as the magistrate may think fit to call for.

(2) The accused person shall be allowed to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

(3) Nothing in this section shall prevent evidence being produced in support of the prosecution or called for by the magistrate at any stage of the proceedings; provided that an opportunity is given to the accused to cross-examine and to answer and rebut such evidence.

(4) If the magistrate calls for other evidence than that produced in the case for the prosecution he shall record the fact on the depositions stating shortly the nature of the evidence he has called for.

(5) If the officer or other person conducting the prosecution applies to the magistrate to issue process to compel

the attendance of any witness or the production of any document or other thing the magistrate shall issue such process unless for reasons to be recorded he deems it unnecessary to do so.

**141.** (1) When the evidence referred to in the last preceding section has been taken and he has, if he thinks fit, examined the accused under section 220 for the purpose of enabling him to explain any circumstance appearing against him in the evidence, the magistrate shall if he finds that there are not sufficient grounds for committing the accused person for trial discharge him, unless it appears to the magistrate that such person should be tried before himself or before some other magistrate in which case he shall either —

When  
accused  
person to be  
discharged

(a) forthwith frame a charge or charges in writing and call upon the accused to plead thereto; or

(b) order the accused to be tried before some other magistrate.

(2) If the magistrate takes action under paragraph (a) of subsection (1) it shall not be necessary for the magistrate to recall and re-examine the witnesses for the prosecution, but the accused may require that any witness called for the prosecution may be recalled for further cross-examination.

(3) Nothing in this section shall be deemed to prevent a magistrate from discharging the accused at any previous stage of the case if for reasons to be recorded by such magistrate he considers that there are not sufficient grounds for committing the accused.

(4) When the magistrate is of opinion that there are peculiar difficulties of circumstances connected with the case or whenever he shall be so directed by a superior Court he may remand the accused or admit him to bail and he shall forthwith send the depositions to such superior Court for instructions.

When charge  
to be framed

**142.** (1) If after taking the evidence for the prosecution the magistrate is of opinion that on the evidence as it stands there are sufficient grounds for committing the accused for trial he shall frame a charge under his hand declaring with what offence or offences the accused is charged.

(2) As soon as the charge has been framed it shall be read and explained to the accused and the magistrate shall say to him these words or words to the like effect —

“Having heard the evidence against you do you wish to say anything in answer to the charge? You are at liberty to make your defence now or you may reserve your defence until your trial before the High Court. You are not bound to say anything unless you wish to do so, but if you elect to make your defence now any statement you may make or evidence you may give will be taken down in writing and may be put in at your trial.”

(3) A copy of the charge shall, if he so require, be given to the accused free of charge.

Committal of  
accused if  
defence  
reserved

**143.** (1) If the accused elects to reserve his defence he shall forthwith be committed for trial before the High Court.

Hearing and  
evidence for  
defence

(2) If the accused elects to make his defence before the magistrate, the magistrate shall explain to him the provisions of section 221 of this Code. The statement made by the accused, if any, shall be taken down in writing and read over to him and shall be signed by such magistrate and kept with the depositions and transmitted with them as hereinafter mentioned.

(3) The evidence of the accused if he tenders himself as a witness in his own behalf in lieu of making a statement under subsection (2) and of any witnesses whom he may desire to call shall then be taken.

(4) The accused shall be a competent witness in his own behalf in all inquiries under this Chapter.

(5) If the accused applies to the magistrate to issue process to compel the attendance of any witness or the production of any document or other thing the magistrate shall



issue such process unless for reasons to be recorded he deems it unnecessary to do so.

**144.** ~~When the evidence referred to in the last preceding section has been taken the magistrate shall —~~ Discharge or committal of accused

(a) if he finds that there are not sufficient grounds for committing him for trial discharge the accused;

(b) if he finds that there are sufficient grounds for committing him for trial commit the accused for trial before the High Court.

**145.** (1) When the accused has been committed for trial under section 143 or 144 the magistrate shall require him to give orally or in writing a list of the names and so far as practicable the addresses of the persons, if any, whom he wishes to be summoned to give evidence on his trial, whether such persons have given evidence before the magistrate or not, and shall record that he has so done. List of witnesses for defence on trial

(2) If the magistrate thinks that any witness is included in the above list for the purpose of vexation or delay or of defeating the ends of justice he may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material and if he is not so satisfied may remove the name of such witness from the list, recording his reason for such action, or may require such sum to be deposited as such magistrate thinks necessary to defray the expense of obtaining the attendance of such witness at the trial.

(3) The list of witnesses, as finally determined, shall be included in the record.

(4) The accused may at any time before his trial give to the magistrate, or, if he is in custody, to the officer in charge of the prison for transmission to the magistrate, a further list of persons whom he wishes to give evidence on his behalf on such trial, provided that such list be accompa-

nied by a concise statement of the facts to be proved by such witness.

(5) The magistrate on receiving such list and statement shall issue summonses to compel the attendance of such witnesses at the trial.

(6) The magistrate shall also issue summonses to compel the attendance at the trial of all the witnesses included in the list framed under subsection (1).

Bond of  
witnesses

**146.** (1) Witnesses for the prosecution and defence whose attendance is necessary at the trial before the High Court and who appear before the committing magistrate shall be bound over by him to be in attendance when called upon to give evidence at such trial and may in the discretion of the magistrate be required to execute bonds and to find sureties for the observance of such bonds.

(2) If any witness refuses to execute the bond above directed the magistrate may commit him to prison until the trial or until he gives satisfactory security that he will give evidence at the trial.

Record to be  
forwarded to  
Court of trial

**147.** (1) When the accused is committed for trial the committing magistrate shall send the original record and any document, weapon or other thing which is to be produced in evidence to the Court to which the accused is committed.

(2) Any such thing which from its bulk or otherwise cannot conveniently be forwarded may remain in the custody of the police.

(3) A list of all exhibits with a note of their distinguishing marks and showing which of such exhibits are forwarded with the record and which remain in the custody of the police shall be sent with the record.

(4) The record shall comprise the following particulars —

- (a) the serial number;
- (b) the date of the commission of the offence;
- (c) the date of the complaint, if any;
- (d) the name, age, sex, residence, and nationality (or race) of the complainant, if any;
- (e) the name, age, sex, residence, if known, and nationality (or race) of the accused;
- (f) the offence complained of and the offence proved, and the value of the property, if any, in respect of which the offence has been committed;
- (g) the date of the summons or warrant and of the return day of the summons, if any, or on which the accused was first arrested;
- (h) the date on which the accused first appeared or was brought before a magistrate;
- (i) the name and title of the officer or other person conducting the prosecution;
- (j) the date of making of each adjournment or postponement, if any, and the date to which such adjournment or postponement was made and the grounds of making the same;
- (k) the date on which the proceedings terminated;
- (l) the order made;

(*m*) the depositions;

(*n*) the statement, if any, of the accused under section 142 (2);

(*o*) the charge;

(*p*) the list of witnesses given by the accused.

Power to  
summon sup-  
plementary  
witnesses

**148.** (1) The magistrate may summon and examine supplementary witnesses after the commitment and before the commencement of the trial and bind them over in manner hereinbefore provided to appear and give evidence.

(2) Such witnesses shall be examined in the presence of the accused, who shall have the right to cross-examine them.

Custody of  
accused  
pending trial

**149.** The magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody until and during the trial.

**150.** *No section.*

Addresses

**151.** (1) In preliminary inquiries under this Chapter —

(*a*) the officer or other person conducting the prosecution need not open his case but may forthwith produce his evidence;

(*b*) when the evidence for the prosecution has been taken the accused may make such comments thereon as he thinks necessary;

(*c*) if the accused elects to make his defence before the magistrate he may after the examination of his witnesses sum up his case.

(2) If the accused addresses the Court in accordance with paragraphs (b) or (c) of subsection (1) the officer or other person conducting the prosecution shall have the right to reply.

## Chapter XVIII

### The Charge

**152.** (1) Every charge under this Code shall state the offence with which the accused is charged. Form of charge

(2) If the law which creates the offence gives it any specific name the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any specific name so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

#### *Illustrations*

(a) A. is charged with the murder of B. This is equivalent to a statement that A.'s act fell within the definition of murder given in sections 299 and 300 of the Penal Code; that it did not fall within any of the general exceptions of the same Code and that it did not fall within any of the 5 exceptions to section 300, or that if it did fall within exception one, one or other of the 3 provisos to that exception applied to it. Cap. 22

(b) *A.* is charged, under section 326 of the Penal Code, with voluntarily causing grievous hurt to *B.* by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Penal Code, and that the general exceptions did not apply to it.

(c) *A.* is accused of murder, cheating, theft, extortion, criminal intimidation, or using a false property mark. The charge may state that *A.* committed murder or cheating or theft or extortion or criminal intimidation or that he used a false property mark without reference to the definitions of those crimes contained in the Penal Code; but the sections under which the offence is punishable must in each instance be referred to in the charge.

(d) *A.* is charged, under section 184 of the Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person

**153.** (1) The charge shall contain such particulars as to the time and place of the alleged offence and the person, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 165:

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated

**154.** When the nature of the case is such that the particulars mentioned in the last 2 preceding sections do not give the accused sufficient notice of the matter with which he is charged the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

*Illustrations*

(a) *A.* is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) *A.* is accused of cheating *B.* at a given time and place. The charge must set out the manner in which *A.* cheated *B.*

(c) *A.* is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by *A.* which is alleged to be false.

(d) *A.* is accused of obstructing *B.*, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which *A.* obstructed *B.* in the discharge of his functions.

(e) *A.* is accused of the murder of *B.* at a given time and place. The charge need not state the manner in which *A.* murdered *B.*

(f) *A.* is accused of disobeying a direction of the law with intent to save *B.* from punishment. The charge must set out the disobedience charged and the law infringed.

**155.** In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable. Sense of words used in charge to describe offence

**156.** No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars shall be regarded, at any stage of the case, as material unless the accused was in fact misled by such error or omission. Effect of errors

*Illustrations*

(a) *A.* is charged under section 242 of the Penal Code with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit" the word "fraudulently" being omitted in the charge. Unless it appears that *A.* was in fact misled by this omission the error shall not be regarded as material. Cap. 22

(b) *A.* is charged with cheating *B.*, and the manner in which he cheated *B.* is not set out in the charge, or is set out incorrectly. *A.*

defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) *A.* is charged with cheating *B.*, and the manner in which he cheated *B.* is not set out in the charge. There were many transactions between *A.* and *B.*, and *A.* had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d) *A.* is charged with the murder of Johan Samad on the 6th June, 1984. In fact the murdered person's name was Jamil Samad, and the date of the murder was the 5th June, 1984. *A.* was never charged with any murder but one, and had heard the inquiry before the magistrate which referred exclusively to the case of Jamil Samad. The Court may infer from these facts that *A.* was not misled, and that the error in the charge was immaterial.

(e) *A.* was charged with murdering Jamil Samad on the 5th June, 1984, and with murdering Johan Samad (who tried to arrest him for the murder of Jamil Samad) on the 6th June, 1984. When charged with the murder of Jamil Samad he was tried for the murder of Johan Samad. The witnesses present in his defence were witnesses in the case of Jamil Samad. The Court may infer from this that *A.* was misled and that the error was material.

Procedure on  
commitment  
on imperfect  
charge

**157.** When any person is arraigned for trial on an imperfect or erroneous charge the Court may frame a charge, or add to or otherwise alter the charge as the case may be, having regard to the rules contained in this Code as to the form of charges.

#### *Illustrations*

(a) *A.* is charged with the murder of *C.* A charge of abetting the murder of *C.* may be added or substituted.

(b) *A.* is charged with forging a valuable security under section 467 of the Penal Code. A charge of fabricating false evidence under section 193 of the same Code may be added.

(c) *A.* is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Penal Code cannot be added.



**158.** (1) Any Court may alter or add to any charge at any time before judgment is pronounced or, in the case of trials with the aid of assessors, before the opinions of the assessors are expressed.

Court may alter or add to charge

(2) Every such alteration or addition shall be read and explained to the accused.

**159.** If a charge is framed or an alteration or addition is made under either of the last 2 preceding sections, the Court shall forthwith call upon the accused to plead thereto and to state whether he is ready to be tried on such charge or altered or added charge. If the accused declares that he is not ready, the Court shall duly consider the reasons he may give and if proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered or added charge had been the original charge.

When trial may proceed immediately after alteration or addition

**160.** If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor, as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

When new trial may be directed or trial suspended

**161.** If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge requires previous sanction

**162.** Whenever a charge is altered or added by the Court after the commencement of the trial the prosecutor and the accused shall be allowed to recall or re-summon and examine, with reference to such alteration or addition, any

Recall of witnesses when charge altered

witness who may have been examined, and may also call any further evidence which may be material.

Effect of  
material  
error

**163.** (1) If any appellate Court is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge, or by an error or alteration in the charge, it may direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(2) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

*Illustration*

A. is convicted of an offence, under section 196 of the Penal Code, upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A. had such knowledge and that he was misled in his defence by the omission from the charge of the statement that he had it, it may direct a new trial upon an amended charge, but, if it appears probable from the proceedings that A. had no such knowledge, it shall quash the conviction.

Separate  
charges for  
distinct  
offences

**164.** For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 165, 166, 167 and 171.

*Illustration*

A. is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A. must be separately charged and separately tried for the theft and causing grievous hurt.

Three off-  
ences of same  
kind within  
12 months  
may be  
charged  
together

**165.** (1) When a person is accused of more offences than one of the same kind committed within the space of 12 months from the first to the last of such offences, he may be charged with and tried at one trial for any number of them not exceeding 3.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Penal Code, or of any law for the time being in force. Cap. 22

**166.** (1) If in one series of acts so connected together as to form the same transaction more offences than one are committed by the same person, he may be charged with and tried at one trial for every such offence. Trial for more than one offence, etc.

(2) If the acts alleged constitute an offence falling within 2 or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with and tried at one trial for each of such offences.

(3) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined, or for any offence constituted by any one or more of such acts.

(4) Nothing contained in this section shall affect section 71 of the Penal Code. Cap. 22

#### *Illustrations*

To subsection (1) —

(a) *A.* rescues *B.*, a person in lawful custody, and in so doing causes grievous hurt to *C.*, a constable in whose custody *B.* was. *A.* may be charged with and tried for offences under sections 225 and 333 of the Penal Code.

(b) *A.* has in his possession several seals, knowing them to be counterfeit, and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Penal Code. *A.* may be separately charged with and convicted for the possession of each seal under section 473 of the Penal Code.

(c) With intent to cause injury to *B.*, *A.* institutes a criminal proceeding against him, knowing that there is no just or lawful ground

for such proceeding; and also falsely accuses *B.* of having committed an offence, knowing that there is no just or lawful ground for such charge. *A.* may be separately charged with and convicted of 2 offences under section 211 of the Penal Code.

(*d*) *A.*, with intent to cause injury to *B.*, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial *A.* gives false evidence against *B.*, intending thereby to cause *B.* to be convicted of a capital offence. *A.* may be separately charged with and convicted of a capital offence. *A.* may be separately charged with and convicted of offences under sections 211 and 194 of the Penal Code.

(*e*) *A.* with 6 others, commits the offences of rioting, grievous hurt, and assaulting a public servant endeavouring, in the discharge of his duty as such to suppress the riot. *A.* may be separately charged with and convicted of offences under sections 145, 325 and 152 of the Penal Code.

(*f*) *A.* threatens *B.*, *C.* and *D.* at the same time with injury to their persons, with intent to cause alarm to them. *A.* may be separately charged with and convicted of each of the three offences under section 506 of the Penal Code.

The separate charges referred to in illustration (*a*) to (*f*) respectively may be tried at the same time.

To subsection (2) —

(*g*) *A.* wrongfully strikes *B.* with a cane. *A.* may be separately charged with and convicted of offences under sections 352 and 323 of the Penal Code.

(*h*) Several stolen sacks of corn are made over to *A.* and *B.*, who know they are stolen property, for the purpose of concealing them. *A.* and *B.* thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain pit. *A.* and *B.* may be separately charged with and convicted of offences under sections 411 and 414 of the Penal Code.

(*i*) *A.* exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. *A.* may be separately charged with and convicted of offences under sections 317 and 304 of the Penal Code.

(*j*) *A.* dishonestly uses a forged document as genuine evidence, in order to convict *B.*, a public servant, of an offence under section 167 of the Penal Code. *A.* may be separately charged with and convicted of offences under sections 471 (read with 466) and 196 of the same Code.

To subsection (3) —

(k) *A.* commits robbery on *B.*, and in doing so voluntarily causes hurt to him. *A.* may be separately charged with and convicted of offences under sections 323, 392 and 394 of the Penal Code.

**167.** If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed

*Illustrations*

(a) *A.* is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

(b) *A.* states on oath before the committing magistrate that he saw *B.* hit *C.* with a club. Before the High Court Judge *A.* states on oath that *B.* never hit *C.* *A.* may be charged in the alternative and convicted of intentionally giving false evidence although it cannot be proved which of these contradictory statements was false.

**168.** If in the case mentioned in the last preceding section the accused is charged with one offence and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

When a person charged with one offence can be convicted of another

*Illustration*

*A.* is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be) though he was not charged with such offence.

Person charged with an offence can be convicted of the attempt

**169.** When the accused is charged with an offence he may be convicted of having attempted to commit that offence, although the attempt is not separately charged.

When offence proved is included in offence charged

**170.** (1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved but the remaining particulars are not proved, he may be convicted of the minor offence though he was not charged with it.

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

(3) Nothing in this section shall be deemed to authorise a conviction of any offence referred to in subsection (1) of section 132 of this Code when no complaint has been made as required by that subsection.

#### *Illustrations*

Cap. 22

(a) A. is charged, under section 407 of the Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust in respect to the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(b) A. is charged, under 325 of the Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

When persons may be charged jointly

**171.** When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing an offence and another of abetment of or attempt to commit the same offence, they may be charged and tried together or separately as the Court thinks fit, and the provisions contained in the former part of this Chapter shall apply to all such charges.

*Illustrations*

(a) *A.* and *B.* are accused of the same murder. *A.* and *B.* may be charged and tried together for the murder.

(b) *A.* and *B.* are accused of a robbery, in the course of which *A.* commits a murder with which *B.* has nothing to do. *A.* and *B.* may be tried together on a charge both of them with the robbery and *A.* alone with murder.

(c) *A.* and *B.* are both charged with a theft, and *B.* is charged with 2 other thefts committed by him in the course of the same transaction. *A.* and *B.* may be both tried together on a charge charging both with the one theft and *B.* alone with the 2 other thefts.

(d) *A.* and *B.*, being members of opposing factions in a riot, should be charged and tried separately.

(e) *A.* and *B.* are accused of giving false evidence in the same proceeding. They should be charged and tried separately.

**172.** (1) When more charges than one are made against the same person and when a conviction has been had on one or more of them, the officer or other person conducting the prosecution may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into or trial of such charge or charges.

Withdrawal of remaining charges on conviction on one of several charges

(2) Such withdrawal or stay shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn or not proceeded with.

**173.** All charges upon which persons are tried in Brunei before the High Court shall be brought in the name of the Public Prosecutor, and be as nearly as possible in accordance with the forms in the Second Schedule.

Form of charges

## Chapter XIX

## Trials without the Aid of Assessors

Procedure **174.** So far as practicable the procedure laid down in this Chapter shall be observed by all Courts in trials under this Code without the aid of assessors.

Charge to be read and explained **175.** (1) When the accused appears or is brought before the Court a charge containing the particulars of the offence of which he is accused shall be framed and read and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

Conviction on plea of guilty (2) If the accused pleads guilty to a charge whether as originally framed or as amended under section 178 the plea shall be recorded as nearly as possible in the words used by him and he may be convicted thereon:

Provided that before a plea of guilty is recorded the Court may hear the complainant and such other evidence as it considers necessary and shall ascertain that the accused understands the nature and consequences of his plea and intends to admit, without qualification, the offence alleged against him.

Procedure when no admission is made **176.** (1) If the accused refuses to plead or does not plead or claims to be tried, the Court shall proceed to hear the complainant (if any) and to take all such evidence as may be produced in support of the prosecution and such further evidence (if any) as it may of its own motion cause to be produced.

(2) When the Court thinks it necessary it shall obtain from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before itself such of them as it thinks necessary.



(3) The accused shall be allowed to cross-examine the complainant and all the witnesses for the prosecution and the complainant or officer or other person conducting the prosecution may, if necessary, re-examine them.

(4) The Court may on behalf of the accused or prosecution or of its own motion put such questions to the witnesses as it considers necessary.

177. (1) If upon taking all the evidence referred to in section 176 and making such examination (if any) of the accused under section 220 as the Court considers necessary it finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Court may, subject to the provisions of section 186, record an order of acquittal.

*When no prima facie case*

(2) Nothing in subsection (1) of this section shall be deemed to prevent the Court from discharging the accused at any previous stage of the case if, for reasons to be recorded by the Court, it considers that the charge is groundless.

178. (1) If, when such evidence has been taken and the Court has, if it thinks fit, examined the accused under section 220 of this Code for the purpose of enabling him to explain any circumstance appearing in the evidence against him, and the Court is of opinion that there are grounds for presuming that the accused has committed the offence charged or some other offence, which such Court is competent to try and which in its opinion it ought to try, it shall consider the charge recorded against the accused and decide whether it is sufficient and, if necessary, it shall amend the same.

*When prima facie case*

(2) The charge if amended shall be read and explained to the accused and he shall be again asked whether he is guilty or has any defence to make.

Defence

**179.** (1) If the accused does not plead guilty to the charge as amended or if no amendment is made the accused shall then be called upon to enter upon his defence and to produce his evidence, and the Court shall explain to the accused the provisions of section 221 of this Code, or may proceed in accordance with the provisions of section 160.

(2) If the accused elects to give evidence, his evidence shall ordinarily be taken before that of other witnesses for the defence.

(3) The complainant or officer or other person conducting the prosecution shall be allowed to cross-examine all the witnesses for the defence, and the accused may, if necessary, re-examine them.

(4) At any time when he is making his defence the accused may be allowed to call and cross-examine any witnesses present in Court or its precincts.

(5) If the accused puts in any written statement the Court shall file it with the record.

(6) An accused person who elects to give evidence may be cross-examined on behalf of any other accused person.

Summoning  
witnesses

**180.** (1) If the accused applies to the Court to issue any process for compelling the attendance of any witnesses (whether he has or has not been previously examined in the case) for the purpose of examination or cross-examination or the production of any document or other thing, the Court shall issue such process unless it considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by it in writing.

(2) The Court may, before summoning any witness on such application, require that his reasonable expenses

incurred in attending for the purpose of the trial be deposited in Court, or may act under the provisions of section 383.

(3) The Court may at any time adjourn the hearing of a case if satisfied that this course is in the interests of justice.

**181.** (1) If the Court finds the accused not guilty the Court shall record an order of acquittal. Acquittal,  
and sentence  
on conviction

(2) If the Court finds the accused guilty or a plea of guilty is recorded against him it shall pass sentence according to law.

**182.** When the proceedings have been instituted upon the complaint of some person upon oath under section 131 and upon any day fixed for the hearing of the case the complainant is absent and the offence may lawfully be compounded, the Court may, in its discretion, notwithstanding anything hereinbefore contained, discharge the accused at any time before calling on him to enter upon his defence. Non-  
appearance  
of com-  
plainant

**183.** (1) If in a summons case the accused does not appear at the time and place mentioned in the summons and it appears to the Court that the summons was duly served a reasonable time before the time appointed for appearing and no sufficient ground is shown for an adjournment the Court may either proceed *ex parte* to hear and determine the complaint or may adjourn the hearing to a future day. Non-  
appearance  
of accused

(2) Without prejudice to the provisions of section 137, if in the case of any offence which is not punishable by imprisonment except in default of payment of a fine or which if punishable by imprisonment as well as by fine is not so punishable by a term of imprisonment exceeding 6 months and which shall have been declared by the written law providing for it or by resolution of His Majesty in Council to be an offence to which the procedure provided

by this subsection is applicable, the accused pleads guilty to such offence by letter addressed to the Court, the Court may in its discretion in lieu of proceeding under subsection (1) deal with the case in like manner and with the like powers as if the defendant had actually appeared before it and pleaded guilty and as if such plea had been recorded and had not been withdrawn subject nevertheless to such modifications as may be required by the physical absence of the defendant:

Provided that the Court may at any stage before sentence and shall, if it considers a sentence of imprisonment should be imposed, revoke its decision to proceed under this subsection.

Provided further that the discretion conferred on the Court to proceed under this subsection shall be exercisable only if the complainant is a public officer and so requests.

(3) Whenever the procedure provided by subsection (2) is followed —

(a) the complainant shall furnish the Court with a statement of facts, including matters other than previous convictions which he desires the Court to take into consideration in passing sentence;

(b) the complainant shall cause particulars of any previous convictions upon which it is intended to rely to be served on the defendant together with the summons or not less than 5 clear days before the date fixed by the summons for the hearing;

(c) matters stated in mitigation of sentence in the letter addressed by the defendant to the Court may in so far as they are not disputed by the prosecution be taken into account in passing sentence.

(d) the summons shall contain an endorsement or accompanying instrument under the hand of the magistrate presiding over such Court in such terms as the Chief Justice may in pursuance of section 400 approve;

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(e) if the Court receives a letter purporting to be signed by the complainant and has not reason to believe that it was not in fact so signed, such letter shall be deemed to have been in fact so signed until evidence to the contrary is adduced; and

(f) the Court shall cause the defendant to be informed of any order made by the Court and shall afford him a reasonable time to comply therewith.

(4) If after a Court has proceeded under subsection (2) that Court or any Court exercising powers of revision or appeal in respect of such proceedings is satisfied that the defendant did not plead guilty by letter in such proceedings such Court shall have power to declare such proceedings a nullity and to make any consequential or further order.

**184.** In trials under this Chapter —

Addresses

(a) the officer or other person conducting the prosecution may open the case by stating shortly the nature of the offence charged and the evidence by which he proposes to prove the guilt of the accused or he may forthwith produce his evidence;

(b) when the accused is called upon to enter on his defence, he may before producing his evidence open his case by stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution, and if the accused gives evidence or witnesses are examined on his behalf he may sum up his case;

(c) the officer or other person conducting the prosecution shall have the right of reply on the whole case whether the accused adduces evidence or not.

**185.** *No section.*

Withdrawal  
of prosecu-  
tion

**186.** (1) At any stage of any trial before the delivery of judgment, the officer or other person conducting the prosecution may if he thinks fit inform the Court that he does not propose further to prosecute the accused upon the charge, and thereupon all proceedings on such charge against the accused may be stayed by leave of the Court or the Court may of its own motion stay the proceedings and if so stayed the accused shall be discharged.

(2) Such discharge shall not amount to an acquittal unless the Court so directs, except in cases coming under section 172.

(3) The Court may require a person discharged under this section to execute a bond, with or without sureties and during such period as the Court may direct, for his reappearance before the Court on the same charge and in the meantime to keep the peace and be of good behaviour.

Power to  
award com-  
pensation

**187.** (1) If in any case the Court acquits the accused and is of opinion that the complaint, information or charge was frivolous or vexatious it may, in its discretion, either on the application of the accused or of its own motion, order the complainant or the person on whose information the complainant or charge was made to pay to the accused, or to each or any of the accused where there are more than one such compensation, not exceeding \$500, as the Court thinks fit:

Provided that the Court —

(a) shall record and consider any objections which the complainant or informant may urge against the making of the order; and

(b) shall record its reasons for making such order.

(2) The sum so awarded shall be recoverable as if it were a fine; provided that if it cannot be realised the imprisonment awarded in lieu thereof shall not exceed 30 days.

(3) At the time of awarding compensation in any subsequent civil suit relating to the same matter the Court shall take into account any sum paid or recovered as compensation under this subsection upon proof of the same.

**188.** In proceedings under this Chapter the Court shall keep a record of the particulars of each case, so far as practicable, as follows —

Particulars to be recorded

(a) The following particulars shall be kept by the Court Writer under the direction of the Judge or magistrate —

- (i) the serial number;
- (ii) the date of the commission of the offence;
- (iii) the date of the complaint, if any
- (iv) the name, age, sex, residence and nationality (or race) of the complainant, if any;
- (v) the name, age, sex, residence and nationality (or race) of the accused;
- (vi) the offence of which he is accused, the offence, if any, proved, and the value of the property in respect of which the offence has been committed;

- (vii) the date of the summons or warrant and of the return day of the summons, if any, or on which the accused was first arrested;
  - (viii) the sentence or other final order.
- (b) The following particulars shall be kept by the Judge or magistrate —
- (i) the plea of the accused and his examination, if any;
  - (ii) the date when the accused first appeared or was brought before the Court;
  - (iii) the name and title of the officer or other person conducting the prosecution;
  - (iv) the date of each adjournment or postponement and the date to which such adjournment or postponement was made and the grounds of making the same;
  - (v) the date on which the proceedings terminated;
  - (vi) the finding;
  - (vii) the sentence or other final order, including the order, if any, made with regard to any exhibits or property produced in connection with the case;
  - (viii) the evidence of the witnesses;
  - (xi) a list of the exhibits;
  - (x) when a petition of appeal has been lodged, the grounds of the decision or the judgment if written.

Transfer of  
cases

**189.** (1) In any trial before a magistrate in which it appears at any stage of the proceedings that from any cause any charge is one which in the opinion of such magistrate ought to be tried by the High Court, the magistrate shall



stay proceedings in respect of such charge and transfer such charge to the High Court or if such charge relates to an offence in respect of which a preliminary inquiry requires to be held proceed under Chapter XVII with a view to the committal of the accused for trial by the High Court, and shall record such order upon the proceedings.

(2) In any trial before a magistrate in which at any stage of the proceedings it appears to the Public Prosecutor that from any cause any charge is one which ought to be tried by the High Court, the Public Prosecutor may direct such magistrate to stay proceedings in respect of such charge and to transfer such charge to the High Court or to proceed under Chapter XVII with a view to the committal of the accused for trial by the High Court and such magistrate shall record such direction upon the proceedings and comply therewith.

**189A.** (1) In any trial before a magistrate in which it appears to the magistrate after the conviction of the accused that by reason of the character and antecedents of such accused a greater punishment should be inflicted in respect of the offence of which the accused has been convicted than such magistrate has power to inflict, the magistrate may, in lieu of dealing with the accused in any manner in which the magistrate has power to deal with him, commit him to the High Court for sentence.

Committal of  
accused to  
High Court  
for sentence

(2) Whenever an accused is committed to the High Court under the provisions of subsection (1) the magistrate may remand such accused in custody to a prison or to such other place as the magistrate deems fit pending the decision of the High Court, and the High Court shall —

(a) as respects the conviction satisfy itself as to the correctness legality or propriety of any finding and as to regularity of any proceedings of the inferior Court, and have the powers conferred upon a Judge by section 298; and

(b) as respects the sentence, have the power to sentence the accused in accordance with the provisions of law under which he was found guilty thereof by the High Court or, if the High Court finds the accused guilty under some other provision of law, in accordance with that provisions:

Provided that an accused whom the High Court has sentenced under this paragraph may appeal to the Court of Appeal against such sentence as if he were a person convicted before the High Court appealing against sentence.

## Chapter XX

### Trials before the High Court with the aid of Assessors

When assessors required **190.** (1) In all cases where the punishment of death is authorised by law the accused shall be tried with the aid of 2 or more assessors of whom at least half the number shall, if possible, be of the same race as the accused.

(2) His Majesty in Council may by notification in the *Government Gazette* order that the trial of any particular offence or class of offences shall be with the aid of assessors, and may revoke or alter such order.

(3) A Judge may order that any case to be tried before him shall be tried with the aid of assessors.

Procedure at trial **191.** When the Court is ready to commence the trial it shall proceed in accordance with the provisions of section 175.

Where accused does not plead, etc. **192.** If the accused refuses to plead, or does not plead or claims to be tried, the Court shall proceed to choose assessors as hereinafter directed and to try the case.

Choosing assessors **193.** (1) When a trial is to be held with the aid of assessors, 2 or more assessors shall be chosen by the Court, and they shall be duly sworn.

(2) The same assessors may try as many accused persons successively as the Court thinks fit.

(3) The officer or other person conducting the prosecution or the accused shall be entitled on cause shown to challenge or object to any assessor.

**194.** (1) If in the course of a trial with the aid of 2 assessors, at any time before the finding, either assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor. If both the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors.

Absence of assessors

(2) Where there are more than 2 assessors the trial shall proceed provided that a majority of the assessors remain.

**195.** Subject to the provisions of this Chapter when the assessors have been chosen the trial shall proceed in accordance with the provisions of sections 176, 177, 178, 179, 180, 184, 186, 187, 188 and 189.

Procedure on trial

**196.** (1) Whenever the Court thinks that the assessors should view the place in which the offence charged is alleged to have been committed or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect and the assessors shall be conducted under the care of an officer of the Court to such place, which shall be shown to them by a person appointed by the Court.

View by assessors

(2) Such officer shall not, except with the permission of the Court, suffer any person to speak to or hold any communication with any of the assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

(3) The accused shall be present at the view.

When assessor may be examined **197.** If an assessor is personally acquainted with any relevant fact he shall inform the Court that such is the case whereupon he may be affirmed, examined, cross-examined and re-examined in the same manner as any other witness.

Assessors to attend adjourned sitting **198.** If a trial is adjourned the assessors shall attend at the adjourned sitting and at every subsequent sitting until the conclusion of the trial.

### *Conclusion of Trial*

Opinions of assessors **199.** When the case for the defence and the reply (if any) of the officer or other person conducting the prosecution are concluded, the Court may sum up the evidence for the prosecution and defence and shall require each of the assessors to state his opinion orally and shall record such opinion.

Judgment **200.** (1) In a trial with the aid of 2 assessors if the Court agrees with the opinion of both assessors or, where the assessors are of different opinions or one assessor only remains as provided by section 194 (1), with the opinion of one assessor, the Court shall give judgment accordingly.

(2) Where there are more than 2 assessors and the Court agrees with the opinion of all the assessors or, where the assessors are of different opinions, with the opinion of at least 2 assessors, the Court shall give judgment accordingly.

(3) If the accused is acquitted, the Court shall record judgment of acquittal. If the accused is convicted the Court shall pass sentence on him according to law.

Procedure where Court disagrees with assessors **201.** If, where there are 2 assessors, the Court disagrees with the opinion of both assessors or with the opinion of the remaining assessor as provided by section 194 (1), or where there are more than 2 assessors, when there are not at least 2 of the assessors who are of the same opinion as the Court on all or any of the charges on which the accused has been tried, the Court shall order a new trial with the aid of fresh assessors.

202. *No section.*

203. *No section.*

204. (1) In the trial of cases with assessors it is the duty of the Judge — Duty of Judge

(a) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties, and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(b) to decide upon the meaning and construction of all documents given in evidence at the trial;

(c) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(d) to decide whether any question which arises is for himself or whether it is a matter upon which the assessors may express an opinion, and upon this point his decision shall bind the assessors.

(2) The Judge may, if he thinks proper, in the course of his summing up, express his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

#### *Illustrations*

(a) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible. It is for the Judge to decide whether the existence of those circumstances has been proved.

(b) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed. It is the duty of the Judge to decide whether the original has been lost or destroyed.

Duty of assessors

**205.** It is the duty of the assessors —

(a) to say which view of the facts is, in their opinion, true, but for the Judge to decide the legal effect of such view;

(b) to state their opinion on all questions which, according to law, are to be deemed questions of fact.

*Illustrations*

(a) *A.* is tried for the murder of *B.* It is the duty of the Judge to explain to the assessors the distinction between murder and culpable homicide and to tell them under what views of the facts *A.* ought to be convicted of murder or of culpable homicide, or to be acquitted. It is the duty of the assessors to give their opinion which view of the facts is true and for the Judge to decide whether on that view of the facts *A.* is guilty of murder or culpable homicide.

(b) The question is whether a person entertained a reasonable belief on a particular point — whether work was done with reasonable skill or due diligence. Each of these is a question for the assessors.

Chapter XXI

Assessors

Who are qualified to serve as assessors

**206.** Every male person over the age of 21 resident within Brunei being of sound mind and not afflicted with deafness, blindness or other infirmity incapacitating him from such duties shall be qualified and liable to serve as an assessor within Brunei.

List may be prepared

**207.** The District Officer may direct that a list shall be prepared of suitable persons qualified to act as assessors in his District.

Copies to be exhibited

**208.** Such list shall set out the name, nationality (or race), occupation and place of abode of every person therein, and the list or a copy thereof shall be available for inspection in the office of the District Officer.

**209.** Any person desiring to raise any objection to the list may do so in writing to the District Officer. Objections

**210.** A person qualified and liable to serve as an assessor shall be liable to serve as an assessor notwithstanding that his name is not included on the list. Persons liable though not on list

**211.** (1) The Court may require the attendance of persons selected as assessors either by the issue of a summons or in some other convenient manner. Attendance of assessors

(2) The person summoned as an assessor shall be notified as early as possible that his attendance is required.

**212.** A person summoned as an assessor may, for reasonable cause shown, be exempted from attendance by the Court, on the application of such person made in writing or in person. Exemption from attendance

**213.** Every person not being a Government officer summoned to serve and actually serving as an assessor shall be entitled to receive from the public funds such remuneration as the Court may fix. Remuneration to assessors

**214.** (1) Any person summoned to attend as an assessor who, without lawful excuse, fails to attend as required by the summons or, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after having been made aware that his attendance will be required, shall be liable to the punishment prescribed by section 174 of the Penal Code. Punishment for non-attendance

(2) Such punishment may be inflicted summarily on an order to that effect by the Court, and any fine imposed shall be recoverable by distress and sale of the movable or immovable property of the person fined by warrant of distress, to be signed by the Registrar of the Court, which warrant shall be issued by the Registrar without further order of the Court if the amount of fine is not paid within 7

days of being imposed, if imposed in the presence of the person fined, or within 7 days of its having come to his knowledge, by notice or otherwise, that the fine has been imposed, if imposed in his absence:

Provided that it shall be lawful for the Court, if it deem fit, to remit any fine so imposed.

Person fined  
to be notified

**215.** When any person is so fined in his absence the Registrar shall forthwith send him written notice of the fact, requiring him to pay the fine, or to show cause before the Court within 7 days why he should not pay the same.

## Chapter XXII

### General Provisions as to Inquiries and Trials

Statement or  
evidence of  
accused

**216.** In cases which have been committed for trial to the High Court after a preliminary inquiry, the statement or evidence of the accused recorded by the committing magistrate under section 143 may be put in and read as evidence.

**217—219.** *No sections.*

Assistance to  
undefended  
accused

**220.** Without prejudice to section 221 if the accused is undefended the Court may, in its discretion at the close of the evidence of any prosecution witness or at any stage prior to the closure of the case for the prosecution, question the accused as to his defence and as to whether or not he wishes to challenge or supplement any part of the prosecution evidence for the following purposes, namely —

(a) assisting him to cross-examine the witnesses for the prosecution; or

(b) to enable the Court on behalf of the accused to put to any of such witnesses —

(i) any defence advanced by the accused;

(ii) any challenge as to the accuracy of the evidence; or



- (iii) any particular modifying or supplementing the evidence adduced:

Provided that no entry shall be made in the record of any answer made by the accused and that any such answer shall be disregarded except for the purposes aforesaid.

**221.** (1) At every trial or inquiry if and when the Court calls upon the accused for his defence it shall inform and explain to him that he may, if he wishes —

Case for prosecution to be explained by Court to accused

(a) make an oath or affirmation and give evidence on his own behalf in the witness box upon which he is liable to be cross-examined; or

(b) make a statement from the dock not on oath or affirmation upon which he is not liable to be cross-examined:

and that he may in any case call such witnesses on his behalf as he considers fit.

(2) The Court may also in its discretion, which shall be exercised with due regard to any previous exercise of its discretion under section 220, direct the attention of the accused to such of the evidence of the prosecution which appears to the Court to call for an explanation from the accused.

(3) The Court shall explain briefly to the accused the difference between the weight to be attached to a statement made from the dock and to evidence given on oath and shall point out to him that he may be subjected to cross-examination in the latter case but shall not ask an accused who has elected to make a statement from the dock his reason for so doing.

(4) The foregoing provisions of this section shall not apply if the accused is defended by an advocate.

(5) The fact that the accused does not give evidence on oath or affirmation shall not be made the subject of any adverse comment by the prosecution, but the Court may draw such inference therefrom as it thinks just.

Procedure where accused does not understand proceedings

**222.** If the accused, though not insane, cannot be made to understand the proceedings the Court may proceed with the inquiry or trial and, in cases other than cases before the High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall make therein such order or pass such sentence as it thinks fit.

Power to postpone or adjourn proceedings

**223.** (1) If, from the absence of a witness or any other reasonable cause, it becomes necessary or advisable to postpone or adjourn any inquiry or trial the Court may, by order in writing, from time to time, postpone or adjourn the same on such terms as it thinks fit for such time as it considers reasonable and may, by warrant, remand the accused if in custody:

Provided that no magistrate shall remand an accused person to custody under this section for a term exceeding 15 days at a time.

(2) Every order made under this section by the Court of a Magistrate shall be in writing, signed by the presiding Magistrate, and shall state the reasons therefor.

*Explanation*—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for remand.

(3) Whenever a Judge or magistrate is not available to constitute a Court of requisite jurisdiction any magistrate may, by order in writing, notwithstanding that he has no jurisdiction in the case, if the circumstances render it necessary so to do, from time to time postpone or adjourn the trial and may remand the accused either in custody or on bail until a Judge or magistrate is available as aforesaid.

(4) Whenever a magistrate acts under the provisions of subsection (3) of this section, he shall report the fact forthwith to the Judge or magistrate, as the case may be, having jurisdiction in the case.

**224.** (1) The offences punishable under the sections of the Penal Code described in the first 2 columns of Part A of the table next following may, when no prosecution for such offence is actually pending, be compounded by the person mentioned in the third column of that table; or when a prosecution for such offence is actually pending, be compounded by such person with the consent of the Court before which the case is pending.

Compound-  
ing offences

Cap. 22

(2) The offences punishable under the sections of the Penal Code described in Part B of the table next following may, with the consent of the Court before which the case is pending, be compounded by the person to whom the hurt has been caused.

(3) When any offence is compoundable under this section the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is not competent to contract any person competent to contract on his behalf may compound such offence.

(5) The composition of an offence under this section shall have the effect of an acquittal of the accused.

(6) No offence under the Penal Code not mentioned in this section shall be compounded.

## Table of Offences

## PART A

Offence	Section of Penal Code applicable	Person by whom offence may be compounded
Uttering words, etc., with deliberate intent to wound the religious feelings of any person .....	298	The person whose religious feelings are intended to be wounded
Causing hurt .....	323, 334	The person to whom the hurt is caused
Wrongfully restraining or confining any person .....	341, 342	The person restrained or confined
Assault or use of criminal force	352, 355, 358	The person assaulted or to whom criminal force is used
Unlawful compulsory labour ....	347	The person compelled to labour
Mischief when the only loss or damage caused is loss or damage to a private person .....	426, 427	The person to whom the loss or damage is caused
Criminal trespass .....	447	} The person in possession of the property trespassed upon
House trespass .....	448	
Criminal breach of contract of service .....	490, 491	The person with whom the offender has contracted
Defamation .....	500	} The person defamed
Printing or engraving matter knowing it to be defamatory	501	
Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter .....	502	
Insult intended to provoke a breach of the peace .....	504	The person insulted

## PART B

Offence	Section of Penal Code applicable
Voluntarily causing grievous hurt .....	325
Voluntarily causing grievous hurt on sudden provocation .....	335
Causing hurt by an act which endangers life .....	337
Causing grievous hurt by an act which endangers life .....	338

225. *No section.*

226. Whenever any magistrate after having heard and recorded the whole or any part of the evidence in an inquiry or a trial ceases to exercise jurisdiction therein and is succeeded by another magistrate who has and who exercises such jurisdiction, the magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and recommence the inquiry or trial:

Change of  
magistrate  
during hear-  
ing or inquiry

Provided that —

(a) in any trial the accused may, when the second magistrate commences his proceedings demand that the witnesses or any of them be re-summoned and heard;

(b) the High Court may, whether there be an appeal or not, set aside any conviction had or commitment made on evidence not wholly recorded by the magistrate before whom the conviction was had or the commitment made, if such Court is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

227. (1) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of examination for any offence of which such Court can take cognisance and which, from the evidence, he may appear to have committed, and may be proceeded against as though he had been arrested or summoned.

Detention  
of offenders  
attending in  
Court

(2) When the detention takes place in the course of an inquiry under Chapter XVII, or after a trial has been

begun, the proceedings in respect of such person shall be commenced afresh and the witnesses re-heard.

Power to  
view

**228.** (1) Any Judge or magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view, for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection:

Provided that, in the case of a trial with the aid of assessors, the Judge shall not act under this section unless an order is made under section 196 for a view by the assessors.

(2) The Judge or magistrate may direct that the accused shall be present, and he shall take evidence at such place or places.

(3) Such memorandum shall form part of the record of the case.

Sunday  
or public  
holiday

**229.** No proceeding of any Criminal Court shall be invalid by reason of its happening on a Sunday or public holiday.

### Chapter XXIII

#### Mode of Taking and Recording Evidence in Inquiries and Trials

Evidence to  
be taken in  
presence of  
accused

**230.** Except as otherwise expressly provided, all evidence taken under Chapters XVII, XIX, and XX shall be taken in the presence of the accused.

Manner of  
recording  
evidence

**231.** In inquiries and trials under this Code by or before a magistrate the evidence of the witnesses shall be recorded in the manner provided by this Chapter.

**232.** (1) In summons cases tried before a magistrate, the magistrate shall, as the examination of each witness proceeds, make a note of the substance of what such witness deposes, and such note shall be written in English or in romanised Malay by the magistrate with his own hand in legible handwriting and shall form part of the record.

Record of trial

(2) In all other trials before a magistrate and in all inquiries under Chapters XI, XVII and XXX the evidence of each witness shall be taken down in legible handwriting in English or in romanised Malay by the magistrate and shall form part of the record.

**233.** (1) Evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

Mode of recording evidence

(2) The magistrate may, in his discretion, take down any particular question and answer.

**234.** (1) The evidence of each witness taken in inquiries under Chapters XI and XVII shall be read over to him in the presence and hearing of the accused and shall, if necessary be corrected.

Reading over evidence and correction

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him the magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(3) The evidence so taken down shall be interpreted to the witness, if necessary, in the language in which it was given or in a language which he understands.

(4) When a deposition has been read over to a witness and acknowledged to be correct, the magistrate shall append to the evidence of the witness the letters "RA" and his initials which shall be deemed to be a certificate that the

evidence has been read over and, if necessary, interpreted, to the witness in the presence and hearing of the accused and has been admitted by the witness to be correct.

(5) The absence of such a certificate in a deposition shall not be a bar to the deposition being received as evidence in any case in which it is desired to tender the deposition in evidence if it is proved by other evidence that the other requirements of this section were in fact complied with.

Interpretation of evidence to accused

**235.** (1) Whenever any evidence is given in a language not understood by the accused, it shall be interpreted to him in open Court in a language which he understands.

(2) When documents are put in for the purpose of formal proof it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Remarks as to demeanour of witness

**236.** A magistrate recording the evidence of a witness may, at the conclusion of such evidence and at the foot of the notes thereof, record such remarks (if any), as he thinks material respecting the demeanour of such witness whilst under examination.

Judge to take notes of evidence

**236A.** In all criminal cases before the High Court, the presiding Judge shall take down in writing notes of the evidence adduced.

## Chapter XXIV

### Judgment

Mode of delivering judgment

**237.** (1) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court, or the substance of such judgment shall be explained in open Court, either immediately or at some subsequent time of which due notice shall be given to the parties or their legal representatives, and the accused shall, if in custody, be



brought up or, if not in custody, shall be required to attend to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or if he is acquitted in either of which cases it may be delivered in the presence of his legal representative.

(2) Every such judgment shall be delivered in Malay or in English, and in some language understood by the accused. It shall contain the point or points for determination, the decision thereon, and the reasons for the decision. If the judgment is in writing it shall be signed by the person delivering it and filed with the record of the proceeding. If the judgment is delivered orally the substance of it shall be reduced to writing and filed with the record.

(3) It shall specify the offence (if any) of which, and the section of the Penal Code or other law under which the accused is convicted, and the punishment to which he is sentenced. Cap. 22

(4) When the conviction is under the Penal Code, and it is doubtful under which of 2 sections or under which of 2 parts of the same section of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(5) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted, and direct that he be set at liberty.

(6) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed.

**238.** (1) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the Court that at the time when the offence was committed he was under the age of 18 years; but in lieu

No sentence of death on person under 18 years of age

thereof the Court shall sentence such person to be detained during the pleasure of His Majesty and, if so sentenced, he shall be liable to be detained in such place and under such conditions as His Majesty may direct, and whilst so detained shall be deemed to be in legal custody.

(2) A person detained under subsection (1) may at any time be discharged by His Majesty on licence which may be in such form and may contain such conditions as His Majesty may direct and which may at any time be revoked or varied by His Majesty.

(3) Where a licence has been revoked the person to whom the licence related shall return to such place as His Majesty may direct, and if he fails to do so may be apprehended without warrant and taken to that place but without prejudice to the power to release him on licence again.

Judgment of  
death

**239.** When any person is sentenced to death the sentence shall direct that he be hanged by the neck till he is dead, but shall not state the place where, nor the time when, the sentence is to be carried out.

Judgment not  
to be altered

**240.** No Court, other than the High Court, having once recorded its judgment, shall alter or review the same:

Provided that a clerical error may be rectified at any time, and that any other mistake may be rectified at any time before the Court rises for the day.

Judgment to  
be explained  
and copy  
supplied

**241.** The judgment shall be translated or explained to the accused in a language which he understands and on his application a copy of the judgment or, when he so desires, a translation in his own language, if practicable, shall be given to him without delay. Such copy shall, in any case other than a summons case, be given free of cost.

## Chapter XXV

## Submission of Sentences of Death to His Majesty

**244.** (1) In every case in which sentence of death is pronounced the trial Judge shall forward to the Chief Justice for transmission to His Majesty the record of the case, together with a written report under seal stating whether, in his opinion, there are any reasons, and if so what reasons, why the sentence of death should not be carried out.

Submission  
of sentence of  
death to His  
Majesty

(2) Upon the expiration of the time prescribed for instituting an appeal or, if an appeal has been instituted upon the dismissal of the appeal, the Chief Justice shall, as soon as conveniently may be, forward the record and the report to His Majesty together with, if there has been an appeal, an intimation of the decision of the Court of Appeal, and such report, if any, on the case as the Court of Appeal, or if there has been no appeal, the Chief Justice, may think fit to make.

(3) His Majesty may cause the trial judge to be summoned to attend the meeting of the Privy Council at which the sentence of death is to be considered and to produce his notes thereat.

(4) His Majesty, after considering the said report or reports and if the trial judge has been summoned to attend after hearing the trial judge, shall communicate to the High Court a copy under his hand and seal of any order he makes hereon.

## Chapter XXVI

## Execution of Sentences

**245.** (1) If His Majesty has ordered that the sentence of death is to be carried out the High Court shall, on receiving a copy under His Majesty's hand and seal of the order, issue a warrant of execution under the seal of the Court and

Execution of  
sentences of  
death

the hand of a Judge and shall forward such warrant to the Superintendent of Prisons.

(2) The Superintendent of Prisons on receiving such warrant of execution shall appoint an officer to carry it into effect.

(3) His Majesty may order a respite of the execution of the warrant and afterwards appoint some other time or place for its execution.

Procedure where it is alleged that a woman convicted of a capital offence is pregnant

**246.** (1) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this section to be pregnant sentence of death shall not be passed on her, and where no alternative sentence for such offence is otherwise provided for the sentence to be passed on her shall be a sentence of imprisonment for life.

Enactment No. 2/57

(2) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before whom she is convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by the Court with the aid of the assessors or assessor with whose aid the offence was tried and the provisions of sections 194, 200 and 201 shall apply to the inquiry as to whether such woman is pregnant with such modifications as may be necessary and it shall not be necessary to re-swear the assessors or assessor.

(3) The question whether the woman is pregnant shall be determined on such evidence as may be laid before the Court on the part of the woman or the Public Prosecutor, and such woman shall not be found to be pregnant unless such pregnancy is affirmatively proved.

(4) If in proceedings under this section it is found that the woman in question is not pregnant, the woman may as of right appeal to the Court of Appeal.

(5) If on an appeal under subsection (4) the Court is satisfied that the finding should be set aside, it shall quash the sentence passed on the woman in question and instead thereof pass on her a sentence of imprisonment for life.

**247.** (1) If it is made to appear to His Majesty by a report of 2 of the visiting Justices of the prison in which a prisoner under sentence of death is detained or by a report of the medical officer of such prison or otherwise, that such prisoner is mentally disordered or mentally defective then, without prejudice to any powers vested in His Majesty to grant a pardon, respite or commutation, His Majesty shall order that such person be examined forthwith by not less than 2 medical officers or medical practitioners who shall examine the prisoner and inquire into his mental condition.

Persons of  
unsound  
mind

(2) The medical officers or medical practitioners appointed under subsection (1) may in addition to examining the prisoner, consult the prison authorities and make such other inquiries which they think may assist them in reaching conclusions about the prisoner's state of mind and they shall make a report in writing to His Majesty and they or the majority of them may certify in writing that he is insane:

Provided that if a Commission has been appointed under subsection (3) then in lieu of making any report such medical officers or medical practitioners shall give evidence as to the matters aforesaid before such Commission.

(3) Whenever His Majesty has made an order under subsection (1) he may also in his discretion appoint a Commission consisting of a Judge or a magistrate and such number of suitable persons as he shall think fit, or other suitable persons to inquire formally into the question whether such prisoner is mentally disordered or defective or otherwise abnormal or subnormal and whether if the sentence of death is commuted it is desirable in all circumstances

that he should be detained in a lunatic asylum or in prison or in some other fit place for safe custody.

(4) For the purposes of this Code the Chairman of the Commission shall have all the powers of a magistrate for the summoning and examination of witnesses and the administration of oaths or affirmations and for compelling the production of documents and material objects.

(5) If after considering the report in subsection (2) of the findings and recommendations of the Commission appointed under subsection (3) it appears to His Majesty that such prisoner is insane or that his mental condition is such that if he be detained in a prison there is a danger that he may cause physical injury to himself or others His Majesty may order that he be confined in such Government asylum or other suitable place for safe custody as may be specified in the order and if such an order is made such prisoner shall be confined therein by virtue of this section.

Procedure at  
execution

**248.** (1) There shall be present at the execution of a sentence of death a magistrate who shall satisfy himself as to the identity of the prisoner.

(2) There shall also be present at the execution the officer whom the Superintendent of Prisons has appointed to carry out the sentence, a medical officer or hospital assistant and such other person as the Superintendent of Prisons may require, and there may also be present any minister of religion whom the Superintendent of Prisons thinks proper to admit.

(3) As soon as may be after the judgment of death has been executed a medical officer or hospital assistant shall examine the body of the person executed and shall ascertain the fact of death and shall sign a certificate thereof on the back of the warrant of execution and deliver the same to the Superintendent of Prisons.

(4) The magistrate who is present at the execution shall satisfy himself whether judgment of death was duly executed and he shall indorse the warrant accordingly.

(5) The Superintendent of Prisons shall return the warrant of execution duly indorsed as required by this section to the Chief Justice.

**249.** When a sentence of death is avoided by the escape of the person sentenced to death execution of such sentence shall be carried into effect at such other time after his recapture as a Judge shall order.

Escape of  
prisoner

**250.** No omission or error as to time and place and no defect in form in any order or warrant given under this Chapter and no omission to comply with the provisions of section 248 shall be held to render illegal any execution carried into effect under such order or warrant or intended so to have been carried into effect, or shall render any execution illegal which would otherwise have been legal.

Saving for  
irregularity

**251.** *No section.*

**252.** Where the accused is sentenced to imprisonment the Court passing the sentence shall forward a warrant to the officer in charge of the prison in which he is to be confined and, unless the accused is already confined in such prison, shall send him in the custody of the police to such prison with the warrant.

Execution of  
sentences of  
imprison-  
ment

**253.** (1) Whenever an offender has been sentenced to pay a fine the Court passing the sentence may, in its discretion, make both or either of the following orders, that is to say —

Provisions as  
to sentences  
of fine

(a) direct by the sentence that in default of payment of the fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence;

(b) issue a warrant for the levy of the amount by distress and sale of any property belonging to the offender.

(2) A warrant for the levy of a fine may be executed at any place in Brunei.

Imprisonment in default

**254.** Except in cases where the scale is specifically provided for in some other law the period for which the Court directs the offender to be imprisoned in default of payment of fine shall not exceed the following scale:

(a) if the offence is punishable with imprisonment;

<i>Where the maximum term of imprisonment</i>	<i>The period shall not exceed</i>
does not exceed 6 months .....	the maximum term or imprisonment
exceeds 6 months but does not exceed 2 years .....	6 months
exceeds 2 years .....	one-quarter of the maximum term of imprisonment

(b) if the offence is not punishable with imprisonment;

<i>Where the fine</i>	<i>The period shall not exceed</i>
does not exceed \$100 .....	one month
exceeds \$100 but does not exceed \$250 .....	2 months
exceeds \$250 but does not exceed \$500 .....	4 months
exceeds \$500 .....	6 months



**255.** (1) The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination  
of imprison-  
ment when  
fine paid

(2) If, before the expiration of the time of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the time of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

(3) The fine, or any part thereof which remains unpaid, may be levied at any time within 6 years after the passing of the sentence, and if under the sentence the offender be liable to imprisonment for a longer period than 6 years then at any time previous to the expiration of that period, and the death of the offender does not discharge from liability any property which would after his death be legally liable for his debts.

**256.** (1) When an offender has been sentenced to pay a fine, and the fine is not paid forthwith, the Court may make all or any of the following orders —

Allowing  
time to pay  
fine and sus-  
pending ex-  
ecution of im-  
prisonment

(a) direct that time be allowed for the payment of the fine;

(b) direct payment to be made of the fine by instalments;

(c) where the offender has been sentenced to imprisonment in default of payment of the fine under section 253, suspend the execution of the sentence of imprisonment and release the offender; and

(d) direct that any order made under this subsection shall be conditional on the offender executing a bond with or without sureties for his

appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made.

(2) When a fine is directed to be paid by instalments and default is made in the payment of any instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid, and in such event, or where time has been allowed for the payment of the fine and the fine has not been paid within such time, the Court may, if no such order has previously been made, make both or either of the orders specified in section 253.

(3) The provisions of this section shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith, and if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that subsection, fails to do so, the Court may at once pass sentence of imprisonment.

Mode of  
executing  
sentence of  
whipping

**257.** (1) When the accused is sentenced to whipping the instrument to be used and the number of strokes shall be specified in the sentence. In no case shall the whipping exceed 24 strokes in the case of an adult or 12 strokes in the case of a youthful offender.

(2) Whipping shall be inflicted on such part of the person as the Minister from time to time generally directs.

(3) The rattan shall be not more than half an inch in diameter.

(4) In the case of a youthful offender, whipping shall be inflicted in the way of school discipline with a light rattan.

(5) When a person is convicted at one trial of any 2 or more distinct offences any 2 or more of which are legally punishable by whipping, the combined sentences of whipping awarded by the Court for any such offences shall not exceed a total number of 24 strokes in the case of adults and 12 strokes in the case of youthful offenders.

**258.** No sentence of whipping shall be executed by instalments, and none of the following persons shall be punishable with whipping —

Certain persons not punishable with whipping

(a) females;

(b) males sentenced to death;

(c) males whom the Court considers to be more than 50 years of age.

**259.** (1) The punishment of whipping shall not be inflicted unless a medical officer or hospital assistant is present and certifies that the offender is in a fit state of health to undergo such punishment.

Medical certificate required

(2) If, during the execution of a sentence of whipping, a medical officer or hospital assistant certifies that the offender is not in a fit state of health to undergo the remainder of the sentence the whipping shall be finally stopped.

**260.** (1) In any case in which under the preceding section a sentence of whipping is wholly or partially prevented from being executed the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may in its discretion either remit such sentence or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for a term which may extend to 12 months, which may be in addition to any other punishment to which he has been sentenced for the same offence.

Procedure if whipping cannot be inflicted

(2) Nothing in this section shall be deemed to authorise any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law or which the said Court is competent to inflict.

Commencement of sentence of imprisonment on prisoner already undergoing imprisonment

**261.** (1) When a person who is an escaped convict or is undergoing a sentence of imprisonment is sentenced to imprisonment, such imprisonment shall commence either immediately or at the expiration of the imprisonment to which he has been previously sentenced, as the Court awarding the sentence may direct. A sentence of death shall be executed notwithstanding the pendency of any sentence of imprisonment.

(2) Nothing in the last preceding subsection shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

Youthful offenders

**262.** (1) When a youthful offender is convicted before any Criminal Court of any offence punishable by fine or imprisonment such Court may instead of passing a sentence of fine or imprisonment —

(a) order such offender to be discharged after due admonition if the Court thinks fit;

(b) order such offender to be delivered to his parent or to his guardian or nearest adult relative or to such other person as the Court shall designate on such parent, guardian, relative or other person executing a bond with or without sureties, as the Court may require, that he will be responsible for the good behaviour of the offender for any period not exceeding 12 months;

(c) order such offender to be released on probation of good conduct on his entering into a bond with or without sureties, and during such period as

the Court may direct, to appear and receive judgment, if and when called upon, and in the meantime to keep the peace and be of good behaviour;

(*d*) commit in the case of the High Court such offender to custody in a place of detention for any period of not less than one year and not more than 5 years and so that such period shall not extend beyond the day when apparently the offender will attain the age of 20 years and in the case of any other Court transfer the case to the High Court with a view to such offender being committed to custody under the provisions of this paragraph.

(2) Whenever a case is transferred to the High Court under the provisions of paragraph (*d*) of subsection (1) the magistrate may remand such offender in custody to a place of detention, or to such other place as the magistrate deems fit, pending the decision of the High Court, and the High Court either with the youthful offender present or in his absence as the High Court may think fit shall —

(*a*) as respects the conviction, satisfy itself as to the correctness legality or propriety of any finding and as to the regularity of any proceedings of the inferior Court and have the powers conferred upon a Judge by section 298; and

(*b*) as respects the committal to custody, have the powers conferred upon it by paragraph (*d*) of subsection (1) in the case of a youthful offender convicted by it:

Provided that a youthful offender in respect of whom the High Court has made any order under this paragraph may appeal to the Court of Appeal against such order as if he were a person convicted before the High Court appealing against sentence.

(3) In this section “place of detention” means any place appointed by His Majesty in Council to be a place of detention for the purposes of this section.

(4) The Minister may at any time by writing under his hand order any youthful offender who is detained in a place of detention within Brunei, and has been so detained for a period of one year or more, to be released on parole subject to such conditions, if any, as the Minister may in such writing prescribe.

(5) His Majesty in Council may make rules —

(a) to appoint places of detention within or without Brunei and to provide for their inspection;

(b) to regulate the classification, treatment, employment, education, discipline, control, diet and recreation of youthful offenders detained in any place of detention within Brunei;

(c) to provide for the appointment of an Advisory Board to advise the Minister on the exercise of the powers conferred on him by subsection (4) of this section and to perform such other duties as may be prescribed in such rules;

(d) to prescribe the circumstances under which, the persons by whom, and the manner in which youthful offenders who have been released on parole under subsection (4) may be re-arrested and re-committed to a place of detention;

(e) to provide for the transfer of youthful offenders from one place of detention to another;

(f) to regulate, prohibit or prevent the conveyance or transmission of articles or messages into or from a place of detention and to provide for

the exclusion of persons from places of detention and for the arrest of persons found contravening any rule made under this paragraph, and to prescribe the penalty, not exceeding a fine of \$4,000 or imprisonment for a term of 3 months or both such fine and imprisonment, with which the contravention of any rule made under this paragraph shall be punished.

(6) The Court before which a youthful offender is convicted may, in addition to or instead of punishing such offender in manner provided in this section, inflict on his parent or guardian a fine of \$1,500 in any case in which such Court, after summary inquiry, is satisfied that such parent or guardian has, by neglecting to take proper care or otherwise, conduced to the misconduct of such offender:

Provided that no parent or guardian shall be fined without his having had an opportunity of being heard and (if he desires it) of adducing evidence in his defence.

(7) When a youthful offender has been released on probation under paragraph (c) of subsection (1) the Court by which the order was made, if satisfied by information on oath that the offender has failed to observe any of the conditions of his bond, may issue a warrant for his apprehension, and the provisions of subsections (4) and (5) of section 263 shall apply as if such offender had been apprehended under warrant issued under subsection (3) of that section:

Provided that —

(a) if such offender is remanded, he shall be committed to custody in a place of detention or in such other place as the Court deems fit, and

(b) the Court may, instead of passing sentence on him of fine or imprisonment, exercise any of the powers conferred by subsection (1) or (6) of this section.

Release on  
probation of  
offender

**263.** (1) When any person not being a youthful offender has been convicted of any offence punishable with fine or imprisonment before any Court, if it appears to such Court that, having regard to the character, antecedents, age, health or mental condition of the offender, or to the trivial nature of the offence or to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may direct that he be released after such admonition as the Court shall think fit or instead of sentencing him at once to any punishment direct that he be released upon his entering into a bond, with or without sureties and during such period as the Court may direct, to appear and receive judgment if and when called upon and in the meantime to keep the peace and be of good behaviour.

(2) The Court may, if it thinks fit, direct that the offender shall pay the costs of the prosecution or some portion of the same within such period and by such instalments as may be directed by the Court.

(3) If any Court is satisfied by information on oath that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his apprehension.

(4) Any offender when apprehended on any such warrant shall, if not forthwith brought before the Court having power to sentence him be brought before a magistrate, and such magistrate may either remand him by warrant until the time at which he is required by his bond to appear for judgment or until the sitting of a Court having power to deal with his original offence, or may admit him to bail with a sufficient surety conditioned on his appearing for judgment.

(5) The offender, when so remanded, may be committed to prison and the warrant of remand shall order that he be brought before the Court before which he was bound to appear for judgment or to answer as to his conduct since his release.



**263A.** When a Court intends to direct under the powers conferred on it by section 262 or 263 that an offender shall be released on entering into a bond with or without sureties the Court may require that there be included in such bond one or more of the following conditions namely —

Probation  
subject to  
conditions

(a) a condition that such offender shall remain under the supervision of some other person named in the bond during such period as may be therein specified;

(b) such conditions for securing such supervision as the Court may think it desirable to impose;

(c) such conditions with respect to residence, employment, associations, abstention from intoxicating liquors or with respect to any other matter whatsoever as the Court may think it desirable to impose.

**264.** (1) When a person having previously been convicted of an offence punishable with imprisonment of either description for a term of 2 years or upwards is convicted of any other offence also punishable with imprisonment of either description for a term of 2 years or upwards, the High Court or the Court of a Magistrate may, in addition to any other punishment to which it may sentence him, direct that he be subject to the supervision of the police for a period of not more than 3 years commencing immediately after the expiration of the sentence passed on him for the last of such offences.

Sentence  
of police  
supervision

(2) When any person subject to the supervision of the police is, while still subject to such supervision, sentenced to a term of imprisonment within Brunei any term spent in prison shall be excluded from the period of supervision.

Require-  
ments from  
persons  
subject to  
supervision

**265.** (1) Every person subject to the supervision of the police who is at large within Brunei shall —

(a) notify the place of his residence to the officer in charge of the Police District in which such place is situated;

(b) whenever he changes his place of residence within Brunei notify such change of residence to the officer in charge of the Police District which he is leaving and to the officer in charge of the Police District into which he goes to reside;

(c) whenever he changes his place of residence to a place without Brunei notify such change of residence to the officer in charge of the Police District which he is leaving.

(2) Every person subject to the supervision of the police, if a male, shall once in each month report himself at such time as is prescribed by the officer in charge of the Police District in which he resides either to such police officer himself or to such other person as that officer directs, and such police officer or other person may upon each occasion of such report being made take or cause to be taken the finger prints of the person so reporting.

Penalty for  
non-  
compliance  
with  
section 265

**266.** If any person subject to the supervision of the police who is at large within Brunei —

(a) remains in any place for 48 hours without notifying the place of his residence to the officer in charge of the Police District in which such place is situated;

(b) fails to comply with the requirements of the last preceding section on the occasion of any change of residence; or

(c) fails to comply with the requirements of the last preceding section as to reporting himself once in each month;

he shall in every such case, unless he proves to the satisfaction of the Court before which he is tried that he did his best to act in conformity with the law, be guilty of an offence under this Code, and shall be liable to imprisonment for a term which may extend to one year, and to a fine of \$800.

**267.** (1) Every warrant for the execution of any sentence may be issued either by the Judge or magistrate who passed the sentence, or by his successor, or by another Judge or magistrate acting in his place.

Warrant, by whom issuable; return of warrant

(2) When a sentence has been fully executed the officer executing it shall return the warrant to the Court from which it issued with an indorsement under his hand certifying the manner in which the sentence has been executed.

**268.** Nothing in this Code shall be deemed to interfere with the power of His Majesty to grant pardons, reprieves, respites or remissions of punishment.

Saving for powers of His Majesty

## Chapter XXVII

### Previous Acquittals or Convictions

**269.** (1) A person who has been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 167 or for which he might have been convicted under section 168.

Person once convicted or acquitted not to be tried again for same offence

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under subsection (1) of section 166.

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

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

(5) The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

*Illustrations*

(a) *A.* is tried upon a charge of theft as a servant, and acquitted. He cannot afterwards, while the acquittal remains in force, be charged upon the same facts with theft as a servant, or with theft simply, or with criminal breach of trust.

(b) *A.* is tried upon a charge of murder and acquitted. There is no charge of robbery but it appears from the facts that *A.* committed robbery at the time when the murder was committed; he may afterwards be charged with and tried for robbery.

(c) *A.* is tried for causing grievous hurt, and convicted. The person injured afterwards dies. *A.* may be tried again for culpable homicide.

(d) *A.* is tried and convicted of the culpable homicide of *B.* *A.* may not afterwards be tried on the same facts for the murder of *B.*

(e) *A.* is charged and convicted of voluntarily causing hurt to *B.* *A.* may not afterwards be tried for voluntarily causing grievous hurt to *B.* on the same facts unless the case comes within subsection (3) of this section.

**270.** (1) The plea of a previous acquittal or conviction may be pleaded either orally or in writing, and may be in the following form or to the following effect —

Plea of  
previous  
acquittal or  
conviction

“The defendant says that by virtue of section 269 of the Criminal Procedure Code, he is not liable to be tried.”

(2) Such plea may be pleaded together with any other plea, but the issue raised by such plea shall be tried and disposed of before the issues raised by the other pleas are tried.

(3) On the trial of an issue on a plea of a previous acquittal or conviction, the proceedings of the Court on the former trial, and the proceedings (if any) of any preliminary inquiry on the previous or subsequent charge shall be admissible in evidence to prove or disprove the identity of the charges.

## PART VII

### APPEALS, REFERENCE AND REVISION

#### Chapter XXVIII

##### Appeals

**271.** Except as provided for in section 275 the accused person, the complainant or the Public Prosecutor, if he is dissatisfied with any judgment, sentence or order pronounced by any magistrate in a criminal case or matter to which he is a party, may appeal to the High Court against such judgment, sentence or order for any error in law or in fact, or on the ground of the excessive severity or of the inadequacy of the sentence.

Dissatisfied  
person may  
appeal

Procedure

**272.** (1) The appellant shall within 14 days from the time of such judgment, sentence or order being passed or made, file a petition in the Court of such magistrate, paying at the same time the prescribed appeal fee.

(2) If the appellant is in custody he may give notice of appeal within the said 14 days either orally or in writing to the officer in charge of the prison and on payment of the prescribed appeal fee such officer shall forthwith forward such notice or the purport thereof to the Court of such magistrate.

(3) Every such petition of appeal shall be addressed to the High Court and shall state shortly the substance of the judgment appealed against and the grounds of appeal, and shall be signed by the appellant except where such notice is given orally as aforesaid.

(4) No fee shall be payable when the appeal is made by a public servant acting in his official capacity.

**273. and 274.** *No sections.*

Appeal  
against  
acquittal

**275.** When an accused person has been acquitted by a magistrate, or where the appeal is on the ground that the sentence is insufficient, there shall be no appeal except by, or with the sanction in writing of, the Public Prosecutor:

Provided that the petition of appeal required by section 272 may be filed provisionally pending the receipt of the sanction of the Public Prosecutor under this section.

Copy of  
record and  
petition to  
be sent to  
appellate  
Court

**276.** (1) When the appellant has complied with the provisions of section 272, and subject to the provisions of section 275, the Court appealed from shall make and transmit to the High Court a certified copy of the record of the proceedings in the case together with the petition of appeal.

(2) The originals of any documents which were put in at the trial shall, together with certified copies and if necessary, translations thereof, be forwarded with the record, and the Court shall also forward any other exhibits which it considers desirable.

277. (1) On receiving the documents mentioned in the preceding section the Judge shall peruse the same, and if he considers that there is no sufficient ground for interfering he may reject the appeal summarily:

Summary  
rejection of  
appeal

Provided that no appeal shall be rejected summarily except in the case mentioned in subsection (2) unless the appellant has had a reasonable opportunity of being heard either personally or in writing in support of the same.

(2) Where an appeal is brought on the ground that the conviction is against the weight of the evidence or that the sentence is excessive and it appears to the Judge that the evidence is sufficient to support the conviction and that there is nothing in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead him to consider that the sentence ought to be reduced the appeal may without being set down for hearing be summarily rejected by an order certifying that the appeal has been lodged without any sufficient ground of complaint.

(3) If an appeal is dismissed summarily any appeal fee paid shall be refunded to the appellant.

278. The Judge may, on the application of any person desirous of appealing who may be debarred from so doing upon the ground of his not having observed some formality or requirement of this Code, permit an appeal upon such terms and with such directions to the parties as he shall consider desirable, in order that substantial justice may be done in the matter.

Appeal specially allowed in certain cases

Stay of execution pending appeal

**279.** Except in the case of a sentence of whipping (the execution of which shall be stayed pending appeal), no appeal shall operate as a stay of execution, but the Court passing the sentence or the Court to which the appeal lies or the Chief Justice may stay execution on any judgment, order, conviction or sentence pending appeal, on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in such judgment, order, conviction or sentence as may seem reasonable.

Setting down appeals

**280.** If the Judge does not reject the appeal summarily he shall cause notice to be given to the parties that the appeal will be heard.

Procedure at hearing

**281.** (1) An appeal may be conducted orally or, if the appellant so desires, in writing.

(2) The appellant, if present, shall be first heard in support of the appeal, the respondent, if present, shall be heard against it, and the appellant shall be entitled to reply.

(3) If the appellant does not appear to support his appeal the Court shall consider his appeal and may make such order thereon as it may think fit.

Non-appearance of respondent

**282.** (1) If, at the hearing of the appeal, the respondent is not present and the Judge is not satisfied that the notice of appeal was duly served upon him, the Judge shall not make any order in the matter of the appeal adverse to or to the prejudice of the respondent, but shall adjourn the hearing of the appeal to a future day for his appearance, and shall issue the requisite notice to him for service.

(2) If the service of such last-mentioned notice cannot be effected on the respondent the Judge shall proceed to hear the appeal in his absence.



**283.** When an appeal is presented against an acquittal the High Court may issue a warrant directing that the accused be arrested and brought before it, and may commit him to prison pending the disposal of the appeal or admit him to bail. Arrest of respondent in certain cases

**284.** In an appeal from an order of acquittal the High Court may — Appeal from acquittal

(a) dismiss the appeal; or

(b) direct that further inquiry be made or order a new trial on the same or an amended charge; or

(c) find the accused guilty of any offence of which the Court below might have convicted him and pass sentence on him according to law.

**285.** In an appeal from a conviction the High Court may — Appeal from conviction

(a) dismiss the appeal; or

(b) quash the conviction and sentence and acquit or discharge the accused; or

(c) direct that further inquiry be made or order a new trial on the same or an amended charge; or

(d) quash the conviction and convict the accused of any offence of which the Court below might have convicted him, and maintain, reduce, or increase the sentence or alter the nature of the sentence; or

(e) uphold the conviction and maintain, reduce, or increase the sentence or alter the nature of the sentence.

Appeal as to  
sentence

**285A.** In an appeal as to sentence the High Court may reduce or increase the sentence, or alter the nature of the sentence:

Provided that when, on an appeal by the Public Prosecutor on the ground of the inadequacy of sentence, the High Court increases or alters the nature of the sentence, the respondent may appeal to the Court of Appeal against such increase or alteration as if he were a person convicted before the High Court appealing against sentence.

Appeal from  
other order

**286.** In an appeal from any other order the High Court may —

- (a) dismiss the appeal; or
- (b) direct that further inquiry be made; or
- (c) vary or reverse such order.

Order to  
take further  
evidence

**287.** (1) In dealing with any appeal under this Chapter the High Court, if it thinks additional evidence to be necessary or that any witness should be recalled, may either take such evidence itself or direct it to be taken by a magistrate.

(2) When the additional evidence is taken by a magistrate he shall certify such evidence to the High Court which shall thereupon, as soon as may be, proceed to dispose of the appeal.

(3) Unless the High Court otherwise directs, the accused shall be present when the additional evidence is taken.

Judgment

**288.** (1) When the appeal has been heard the High Court shall either at once or on some future day of which notice shall be given to the parties deliver the judgment.

(2) The judgment shall ordinarily be delivered in open Court but in the absence of the appellant or for other just cause the Court may deliver judgment by service of a written copy or may direct that the judgment be read out in the Court below.

**289.** (1) Whenever a case is decided on appeal by the High Court under this Chapter it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed.

Certificate and consequence of judgment

(2) Whenever an appeal is not dismissed such certificate shall state the grounds upon which the appeal was allowed or the decision of the Magistrate's Court was varied.

(3) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court and, if necessary, the record shall be amended in accordance therewith.

**290.** Every appeal under section 275 shall finally abate on the death of the accused.

Death of accused

**291.** No judgment or order of a Magistrate's Court shall be reversed or set aside unless it is shown to the satisfaction of the Court above that such judgment or order was either wrong in law or against the weight of the evidence, or, in the case of a sentence, inappropriate in the circumstances of the case.

Grounds for reversal of judgment of Magistrate's Court

**291A.** (1) When an appeal from the decision of a Court of a Magistrate in criminal matter has been heard and determined by the High Court and the Judge who heard the appeal or the Public Prosecutor, on his own behalf or on the application of any party to the proceedings, has, within one month of such determination or within such further time as the Court of Appeal may permit, signed and filed with the

Reference to Court of Appeal from Magistrate's Court on grounds of public interest

Registrar a certificate that the decision of the High Court involves a point of law which it is desirable in the public interest to have determined by the Court of Appeal, such appeal shall be re-heard by the Court of Appeal.

(2) The provisions of subsection (1) shall, *mutatis mutandis*, apply —

(a) when any order has been made by the High Court to the prejudice of an accused under paragraph (a) of subsection (2) of section 189A;

(b) when any other has been made by the High Court to the prejudice of a youthful offender under paragraph (a) of subsection (2) of section 262;

(c) when the High Court has determined a question of law reserved by a Court of a Magistrate for the consideration of the High Court under section 294; and

(d) when any order has been made by the High Court to the prejudice of the accused under section 298.

(3) Upon the filing of the certificate referred to in subsection (1) the Court of Appeal or any Judge may make such orders as it or he may see fit in respect of the arrest, custody or release on bail of any person convicted, acquitted or discharged as the result of an order of the High Court on the appeal or of the trial Court.

(4) For the purposes of the hearing before the Court of Appeal the Judge who heard the appeal shall cause to be furnished to the Court of Appeal and to the parties to the appeal copies of the grounds of his judgment in such appeal.

(5) The powers conferred upon the Public Prosecutor by this section shall be exercisable by the Public Prosecutor only.

**292.** (1) In all proceedings under this and the following Chapter an appellate Court shall have power to award such costs or expenses to be paid by or to the parties thereto as the Court thinks fit. Costs

(2) Costs awarded to be paid by the Public Prosecutor shall be provided out of the general revenue of Brunei and be payable by the Permanent Secretary to the Ministry of Finance and the Public Prosecutor shall not be personally liable therefor.

(3) Costs awarded to be paid to the Public Prosecutor shall be paid by the party ordered to pay the same to the Permanent Secretary to the Ministry of Finance.

**293.** (1) If any person affected by a judgment or order passed or made by a Criminal Court desires to have a copy of any order or deposition or other part of the record, he shall on applying for such copy, be furnished therewith by the Court: Copies of proceedings

Provided that he pay for the same such reasonable sum as the Court may direct unless the Court for some special reason thinks fit to furnish it free of cost. Such copy shall not be chargeable with stamp duty.

(2) Notwithstanding anything in subsection (1) an accused person committed for trial shall be entitled to receive on request free of charge copy of the depositions of the witnesses recorded by the magistrate.

## Chapter XXIX

## Reference and Revision

Reservation  
of points of  
law

**294.** (1) Any Court may, if it thinks fit, at the conclusion of the proceedings or at any time within 7 days from the time of the judgment, acquittal, sentence or order passed or made therein, reserve for the consideration of the High Court any questions of law arising in such proceedings, setting out shortly the facts on which the law is to be applied and the questions of law to be determined thereon.

(2) Every question of law so reserved shall be submitted to the said Court in the shape of a special case in the form in the Second Schedule.

(3) Every such special case shall be drawn up by the magistrate before which the proceedings are held and shall —

(a) set out shortly the facts which are considered by the magistrate to be proved;

(b) state the question or questions of law which has or have been reserved for the opinion of the Court;

(c) be sent by the magistrate to the Registrar; and

(d) be set down for argument in such manner as the High Court directs.

Determina-  
tion and pow-  
er thereon

**295.** (1) The High Court shall hear and determine the question or questions of law arising on such special case and shall thereupon affirm, amend or reverse the determination in respect of which the special case has been stated or remit the matter to the magistrate with the opinion of the Court

thereon or may make such order in relation to the matter as to the Court seems fit.

(2) No magistrate who states and delivers a special case in pursuance of this Code shall be liable to any costs in respect thereto.

**296.** A Judge may call for and examine the record of any proceeding before any Court of a Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of such Court of a Magistrate.

Power to call for records of Inferior Courts

**297.** On examining any record under the last preceding section, or otherwise, the revising Judge may direct the magistrate to make, and the magistrate shall make, further inquiry into any complaint which has been dismissed under section 135, or into the case of any accused person who has been discharged.

Power to order further inquiry

**298.** (1) A revising Judge may, in any case the record of the proceedings of which has been called for by himself or which otherwise comes to his knowledge, in his discretion, exercise any of the powers conferred by sections 279, 283, 284, 285, 286, 287 and 292 of this Code, or may make such other as he may deem fit.

Powers on revision

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard, either personally or in writing, in his own defence.

**299.** No party has any right to be heard before a Judge when exercising his powers of revision:

Permission for parties to appear

Provided that such Judge may, if he thinks fit, when exercising such powers hear any party and that nothing in

this section shall be deemed to affect subsection (2) of section 298.

Orders on  
revision

**300.** When a case is revised under this Chapter by a Judge he shall certify his decision or order to the Court by which the finding, sentence or order revised was recorded or passed stating where such finding, sentence or order has been varied, and the grounds for such variation; and the Court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified and, if necessary, the record shall be amended in accordance therewith.

**301.** *No section.*

## PART VIII

### Special Proceedings

#### Chapter XXX

#### Inquests

Meaning of  
"cause of  
death"

**302.** In this Chapter the words "cause of death" include not only the apparent cause of death as ascertainable by inspection or *post-mortem* examination of the body of the deceased, but also all matters necessary to enable an opinion to be formed how the deceased came by his death and whether his death resulted in any way from, or was accelerated by, any unlawful act or omission on the part of any other person.

Duty of  
officer in  
charge of  
station

**303.** (1) If an officer in charge of a police station receives information —

(a) that a person has committed suicide;

(b) that a person has been killed by another, or by an animal, or by machinery, or by an accident;



(c) that a person has died under circumstances in which some other person may have committed an offence; or

(d) that a person has died or has disappeared in circumstances which raise reasonable presumption that he has died, and the cause of such death or presumed death is not known;

he shall immediately give information thereof to a magistrate and shall himself immediately proceed or shall direct some other police officer immediately to proceed to the place where the body of such deceased person is, or, if the body has disappeared, to the place where the deceased person was last seen alive, and there shall make an investigation and draw up a report of the apparent cause of death, describing, if the body is available, such wounds, fractures, bruises, and other marks as may be found thereon, and stating in what manner or by what weapon or instrument (if any) the same appear to have been inflicted, and, whether the body is available or not, giving an account of such objects and circumstances as in his opinion may relate to the cause of death or the person (if any) who caused the death:

Provided that if no police officer is available to make the investigation required by this subsection, a magistrate may direct a fit and proper person (hereinafter referred to as an "authorised officer") to carry out such investigation and to draw up the report and forward it to the officer in charge of the police station:

Provided further that if the magistrate is satisfied that no useful purpose would be served by any person proceeding to the place where the body is or, if the body has disappeared, to the place where the body was last seen alive, he may by order in writing under his hand dispense with such requirement.

(2) Any police or authorised officer making an investigation under this section may exercise all the powers granted to a police officer under the provisions of Chapter XIII.

(3) A report of such investigation shall be made and signed by the officer in charge of the police station and forwarded by him to the magistrate:

Provided that if as a result of the investigation such officer drafts a charge under section 123 in respect of the death of such person he shall forward the report to the Public Prosecutor and shall inform the magistrate in writing of the commencement of such proceedings.

Duty of officer to arrange for *post-mortem* examination in certain cases

**304.** (1) Every person making an investigation under the last preceding section shall, if there appears to him any reason to suspect that the deceased came by his death in a sudden or unnatural manner or by violence, or that his death resulted in any way from or was accelerated by any unlawful act or omission on the part of any other person, at once inform the nearest medical officer, and shall take or send the body to the nearest Government hospital or other convenient place for the holding of a *post-mortem* examination of the body by a medical officer:

Provided that if such person is satisfied as to the cause of death and that the deceased came by his death by accident, or that in all the circumstances of the case including the state of the body and the difficulties of communication he is of the opinion that no useful purpose would be served by a further examination, he may order the body to be buried forthwith.

(2) The person making the investigation shall not remove the body if it appears to him that it should be viewed by a magistrate in the place where it was found.

(3) Where it is not practicable to obtain the services of a medical officer, a hospital assistant may perform the duties required by this section.

**305.** (1) Upon receiving the information referred to in the last preceding section a medical officer or hospital assistant shall, as soon as practicable, make *post-mortem* examination of the body of the deceased.

*Post-mortem  
examination  
of body*

(2) The medical officer or hospital assistant, if it is necessary in order to ascertain the cause of death, shall extend the examination to the dissection of the body and an analysis of any portion thereof, and may cause any portion thereof to be transmitted to the Director of Medical Services.

**306.** The medical officer or hospital assistant making any such examination shall draw up a report of the appearance of the body and of the conclusion which he draws therefrom, and shall certify as to the cause of death and shall date and sign the report and transmit it to the magistrate or officer in charge of a police station who shall attach it to the report forwarded under section 303.

*Report of  
medical  
officer*

**307.** (1) If the magistrate shall be satisfied as to the cause of death and that the death did not result in any way from or was not accelerated by any unlawful act or omission without holding an inquest under this Chapter, he shall report to the Public Prosecutor the cause of death as ascertained to his satisfaction, with his reasons for being so satisfied, and shall at the same time transmit to the Public Prosecutor all reports and documents in his possession connected with the matter.

*Duty of  
magistrate  
on receipt of  
report*

(2) A magistrate may in his discretion hold an inquest if there is no body available in the circumstances mentioned in subsection (1) of section 303.

(3) A magistrate shall not hold any inquest under this Chapter if he has reason to believe that criminal proceedings against any person for having caused the death of the deceased have been or are about to be commenced.

(4) In all other cases the magistrate shall proceed as soon as may be to hold an inquest under this Chapter.

Death of a person in custody of police or in any asylum

**308.** Notwithstanding the provisions of section 307, when any person dies while in the custody of the police or in an asylum or prison, the officer who had the custody of such person or was in charge of such asylum or prison, as the case may be, shall forthwith give intimation of such death to the nearest magistrate, and such magistrate or some other magistrate shall, in the case of death in the custody of the police, and in other cases may, if he thinks expedient, hold an inquest into the cause of death and for such purpose may designate any person to make the investigation and report referred to in section 303 and such person shall for the purposes of such investigation be deemed to be a police officer.

Powers of magistrate

**309.** (1) A magistrate holding an inquest under this Chapter shall have all the powers which he would have in holding an inquiry into an offence.

(2) A magistrate holding an inquest under this Chapter if he considers it expedient that the body of the deceased person should be examined by a medical officer or hospital assistant in order to discover the cause of death may, whether a *post-mortem* examination has been made under section 305 or not, issue his order to a medical officer or hospital assistant to make a *post-mortem* examination of such body, and may for such purpose order such body to be exhumed.

(3) The magistrate holding the inquest may if he thinks fit summon to assist him a jury consisting of not less

than 3 and not more than 5 persons of whom at least half shall, if possible, be of the same race as the deceased.

**310.** The magistrate holding an inquest shall ordinarily view the body of the deceased and may for that purpose cause such body to be exhumed;

Magistrate may view body

Provided that a magistrate may in his discretion dispense with viewing the body if for a reason which he shall record he considers it to be unnecessary.

**311.** A magistrate holding an inquest shall inquire when, where, how and after what manner the deceased came by his death and also whether any person is criminally concerned in the cause of such death.

Inquiries to be made by magistrate

**312.** (1) The magistrate holding an inquest under this Chapter shall record the evidence and his finding thereon, and shall forthwith transmit to the Public Prosecutor the original of such evidence and finding duly authenticated by his signature, or a copy of such evidence and finding certified under his hand as correct.

Evidence and finding to be recorded

(2) The place in which any inquest under this Chapter is held shall be a place open to the public. But a magistrate conducting an inquest may, on special grounds of public policy or expediency, in his discretion, exclude the public or any person or persons in particular at any stage of the inquest from the place in which the inquest is being held.

**313.** (1) Notwithstanding anything in section 307, the Public Prosecutor may at any time direct a magistrate to hold an inquest under this Chapter into the cause of, and the circumstances connected with, any death such as is referred to in sections 303 and 308, and the magistrate to whom such direction is given shall thereupon proceed to hold an inquest and shall record his finding as to the cause of death and also as to any of the circumstances connected therewith with

Powers of Public Prosecutor and High Court as to inquests

regard to which the Public Prosecutor may have directed him to make inquiry.

(2) When the proceedings at any inquest under this Chapter have been closed and it appears to the Public Prosecutor that further investigation is necessary, the Public Prosecutor may direct the magistrate to reopen such inquest and to make further investigation, and thereupon the magistrate shall have full power to reopen the inquest and make further investigation and thereafter to proceed in the same manner as if the proceedings at such inquest had not been closed:

Provided that this subsection shall not apply to any inquest at which a finding of murder or culpable homicide not amounting to murder has been returned against any person.

(3) When giving any direction under this section the Public Prosecutor may also direct whether the body shall or shall not be exhumed.

(4) All directions given under this section shall be complied with by the magistrate to whom they are addressed without unnecessary delay.

(5) If it is made to appear to the Public Prosecutor that it is expedient that an inquest commenced by one magistrate should be continued by another he may direct both such magistrates accordingly and such magistrates shall comply with such direction.

Admissibility  
of medical  
report in  
certain cases

**314.** (1) The medical officer or hospital assistant who made the *post-mortem* examination of the body of the deceased shall when possible be called as a witness but in his absence for reasonable cause the written report of such medical officer or hospital assistant shall be admissible in evidence.

(2) Such written report shall be subject to such deduction from its weight as the Court deems proper to make by reason of such report not having been made upon oath and the accused person not having any opportunity of cross-examination.

**314A.** (1) If a jury has been summoned under subsection (3) of section 309 the magistrate shall not be required to arrive at or record a finding but shall direct the jury as to their verdict and shall record the verdict of such jury or, if they fail to agree, of the majority thereof which shall be deemed to be the finding and sections 312 and 313 shall in such case be construed with the modifications necessary to give effect to this section.

Procedure  
where jury  
has been  
summoned

(2) They jury or a majority thereof, as the case may be, shall sign the verdict recorded under subsection (1).

## Chapter XXXI

### Persons of Unsound Mind

**315.** (1) When a Court holding an inquiry or a trial has reason to suspect that the accused person is of unsound mind and consequently incapable of making his defence, it shall in the first instance inquire into the fact of such unsoundness, and if not satisfied that such person is capable of making his defence shall postpone the inquiry or trial and shall remand him to a hospital for a period not exceeding one month.

Procedure  
where ac-  
cused is of  
unsound  
mind

(2) The medical officer of the said hospital shall keep such person under observation during the period of his remand and before the expiry of such period shall certify under his hand to the Court his opinion as to the state of mind of such person, and if he is unable within the period to form any definite conclusion, shall so certify to the Court and shall ask for a further remand which may extend to 2 months.

Certificate  
of medical  
officer

**316.** (1) If the medical officer shall certify that the accused person is of sound mind and capable of making his defence the Court shall proceed with the inquiry or trial.

(2) If the medical officer shall certify that such person is of unsound mind and incapable of making his defence the Court shall, if satisfied of the fact, find accordingly, and thereupon the inquiry or trial, as the case may be, shall be postponed.

(3) The certificate of the medical officer shall be receivable as evidence under this section, but the Court may require the personal attendance of the medical officer.

(4) If the accused person is certified to be of unsound mind and incapable of making his defence it shall not be necessary for him to be present in Court during proceedings under this Chapter.

Release of  
person of un-  
sound mind  
pending in-  
vestigation  
or trial

**317.** (1) Whenever an accused person is found to be of unsound mind and incapable of making his defence the Court, if the offence charged is bailable, may in its discretion release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Court or such officer as the Court appoints in that behalf or —

Enactment  
No. 1/55

(a) in the case of a Court of a Magistrate, remand him to a prison or hospital or other suitable place of safe custody and refer the case to a Judge who may —

(i) release him on security being given as hereinbefore provided; or

(ii) make further enquiry or direct that further enquiry be made or order him to be tried; or



- (iii) order him to be confined in a prison or hospital or other suitable place of safe custody and report the case to the Minister;

(b) in the case of the High Court, order him to be confined in a prison or hospital or other suitable place of safe custody and report the case to the Minister but without prejudice to the provisions of section 323.

(2) If the offence charged is non-bailable, the Court —

(a) in the case of a Court of a Magistrate, shall remand the accused person to a prison or hospital or other suitable place of safe custody and refer the case to a Judge who may —

- (i) release him on security being given as hereinafter provided; or
- (ii) make further enquiry or direct that further enquiry be made or order him to be tried; or
- (iii) order him to be confined in a prison or hospital or other suitable place of safe custody and report the case to the Minister;

(b) in the case of the High Court —

- (i) release him on security being given as provided in subsection (1); or
- (ii) order him to be confined in a prison or hospital or other suitable place of safe custody and report the case to the Minister;

(3) Where any case is reported to the Minister under the provisions of subsection (1) or (2) the Minister shall order the accused person to be confined in a lunatic asylum

or prison or other suitable place of safe custody during the pleasure of His Majesty.

Inquiry or trial

**318.** When the accused has been released under section 317 the Court may at any time require him to appear or be brought before it and may again proceed under section 315.

Defence of lunacy at preliminary inquiry

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

Defence of lunacy on trial

**320.** Where any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane so as not to be responsible for his action at the time when the act was done or omission made, then if it appears to the Court before which such person is tried that he did the act or made the omission charged but was insane as aforesaid at the time when he did or made the same, the Court shall make a special finding to the effect that the accused was guilty of the act or omission charged but was insane as aforesaid when he did the act or made the omission.

Order for detention

**321.** (1) When a special finding under section 320 of the Code is made by any Magistrate's Court it shall report the case for the order of a Judge and shall meanwhile order the person in respect of whom it has made such a finding to be kept in custody in any prison or hospital or in such place and in such manner as the Court shall direct.

(2) If the Judge is satisfied with such special finding he shall order that such person be confined in a lunatic

asylum or prison or other suitable place of safe custody pending the order of the Minister under subsection (5).

(3) If, after such inquiry as he considers necessary, the Judge is not satisfied with such special findings he may make further inquiry or direct that further inquiry be made or order a new trial on the same or on an amended charge with such direction to the Magistrate's Court as he shall think fit.

(4) When a special finding under section 320 is made by the High Court it shall report the case to the Minister and order the person in respect of whom it has made such finding to be confined in a lunatic asylum or prison or suitable place of safe custody pending the order of the Minister under subsection (5); and

(5) Where any case has been reported to the Minister under subsection (2) or subsection (4) the Minister shall order the person in respect of whom a special finding has been made to be confined in a lunatic asylum or prison or other suitable place of safe custody during the pleasure of His Majesty.

322. When any person is confined under the provisions of sections 247, 317 or 321 2 medical officers shall visit him in order to ascertain his state of mind, once at least in every 12 months, and they shall thereupon make a report to the Minister on the state of mind of such person.

Visiting of  
prisoners of  
unsound  
mind

323. If such person is confined under the provision of section 317, and —

Procedure  
when prison-  
er of unsound  
mind re-  
ported able  
to make  
defence

(a) such medical officers shall certify that in their opinion such person is capable of making his defence, and

(b) the Public Prosecutor shall certify that in his opinion it is in the public interest that the trial of such person shall proceed,

he shall be taken before the Court at such time as the Court appoints, and the Court if satisfied that such person is capable of making his defence shall proceed with the trial.

Procedure  
where person  
of unsound  
mind appears  
to be fit for  
discharge

**324.** (1) If it is made to appear to His Majesty by a medical report under section 322 or otherwise that a person detained or confined under the provisions of sections 247, 317 or 321, in this section referred to as “the patient”, may have recovered his sanity and that his discharge may be warranted then, if His Majesty is of opinion that the discharge of the patient either unconditionally or under the provisions of section 325 and 325A is warranted, he shall proceed to order his discharge:

Provided that if the patient is confined under the provisions of section 317 this section shall apply only if the Public Prosecutor shall have informed His Majesty that he has declined to certify to the effect mentioned in paragraph (b) of section 323:

Provided further that if the prisoner is confined under the provisions of section 247 His Majesty may in lieu of discharging the prisoner order that he be transferred to a prison to serve the remainder of any sentence of imprisonment remaining unexpired and that it shall be a condition of any discharge under this subsection that the balance of any such sentence of imprisonment shall have been remitted or shall be remitted from a date not later than the date as from which such discharge is to take effect.

(2) For the purpose of assisting him in forming an opinion under subsection (1) His Majesty may in his discretion appoint a Commission consisting of a Judge or a magistrate and such number of suitable persons or other suitable

persons, as he shall deem fit, to inquire formally into the question whether the discharge of the patient is warranted.

(3) A commission appointed under subsection (2) shall sit in camera:

Provided that the patient or his representative and the Attorney General or his representative shall have the right without leave to appear and be heard by the Commission.

325. (1) Whenever any relative or friend of any person confined under the provisions of sections 247, 317 or 321 desires that he shall be delivered over to his care and custody, the Minister, upon the application of such relative or friend and on his giving security to the satisfaction of the Minister, that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may, in his discretion, order such person to be delivered to such relative or friend.

Delivery of person of unsound mind to care of relative

(2) Whenever such person is so delivered it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Minister directs.

(3) The provisions of sections 322 or 324 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section, and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

325A. (1) Whenever the Minister orders the discharge of a person confined under the provisions of sections 247, 317, 321 or under the provisions of this section it shall be lawful for him to make such discharge conditional upon the compliance by such person with such conditions relating to the further medical observation, care control or supervision of such person as he may consider desirable in the interest of such person or in the public interest and the contravention

Conditional discharge of person who has been of unsound mind

of any such condition by such person shall constitute an offence punishable with a fine of \$8,000.

(2) Upon conviction of such person of an offence under subsection (1) the magistrate may if he has any reason to believe that there has been a relapse in the mental condition of such person in lieu of or in addition to any penalty under subsection (1) order such person to be confined in prison or in hospital or in such place as the magistrate shall think fit.

(3) When any person is confined under the provisions of subsection (2) he shall be visited by 2 medical officers who shall make a report to the Minister on the state of mind of such person.

(4) Upon the receipt of report under subsection (3) the Minister may, if such medical officers so recommend, revoke the order by which such person was discharged whereupon such person shall be liable to be dealt with in like manner as if he had never been discharged or shall order that such person be discharged.

## Chapter XXXII

### Proceedings in Case of Certain Offences Affecting the Administration of Justice

Procedure in certain cases mentioned in section 132

**326.** When any Civil or Criminal Court is of opinion that there is ground for inquiring into any offence referred to in section 132 (1) (b), (c), (d) or (f) and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to a Court having jurisdiction and may send the accused in custody, or take sufficient security for his appearance, before such Court, and may bind over any person to appear and give evidence on such inquiry or trial.

**327.** The High Court or a Court of a Magistrate may charge a person for any offence referred to in section 132 (1) (b), (c), (d) or (f) and committed before it or brought under its notice in the course of a judicial proceeding, and may commit for trial to a Court having jurisdiction or admit to bail and itself try such person upon its own charge.

Power of Courts in certain offences committed before themselves

**328.** Where any such offence as is described in sections 175, 178, 179, 180 or 228 of the Penal Code is committed in the view or presence of any Magistrate's Court whether civil or criminal, the Court may cause the offender to be detained in custody and at any time before the rising of the Court on the same day the Court, if it thinks fit, may take cognisance of the offence and sentence the offender to imprisonment for 14 days or to a fine of \$400, and in default of payment to imprisonment for one month.

Summary procedure for offences committed in Court

Cap. 22

**329.** (1) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender as well as the finding and sentence.

Record of facts constituting the offence

(2) If the offence is an offence punishable under section 228 of the Penal Code the record must show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

**330.** If the Court, in any case, considers that a person accused of any of the offences referred to in section 328 and committed in its view or presence may be better dealt with by ordinary process of law, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may direct the accused to be prosecuted and may require security to be given for the appearance of such accused person before a magistrate or, if sufficient security is not given, may forward such person, under custody, to a magistrate.

Alternative procedure

Power to  
remit  
punishment

**331.** When any Court has, under section 328, adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court or on apology being made to its satisfaction.

Refusal to  
give evidence

**332.** If any witness before a Magistrate's Court refuses to answer such questions as are put to him or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may for reasons to be recorded in writing, sentence him to imprisonment for 14 days, unless in the meantime such person consents to be examined and to answer or to produce the document. In the event of his persisting in this refusal he may be dealt with according to the provisions of sections 328 or 330, notwithstanding any sentence he may have undergone under this section.

Appeal

**333.** (1) Any person sentenced by any lower Court under the provisions of this Chapter may appeal to the Court to which an appeal ordinarily lies.

(2) The provisions of Chapter XXVIII shall, so far as they are applicable, apply to appeals under this section.

(3) The provisions of Chapter XXIX shall also apply to all proceedings by a magistrate under this Chapter.

**334.** *No section.*



## Chapter XXXIII\*

## Maintenance of Wives and Children

**335.** (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, a Court of a Magistrate may upon due proof of such neglect or refusal order such person to make a monthly allowance for the maintenance of his wife or such child at such monthly rate not exceeding \$1,500 in the whole as the Court shall think fit.

Order for maintenance of wives and children

(2) Such allowance shall be payable from the date of the order, if so ordered, from the date of the application for maintenance.

**336.** If any person so ordered fails without sufficient cause to comply with any such order, the magistrate may, for every breach of the order, by warrant, direct the amount due to be levied in the manner by law provided for levying fines imposed by magistrates, or may sentence him to imprisonment of either description for one month for each month's allowance remaining unpaid:

Warrant on neglect to pay

Provided that if any person against whom an order has been made for the maintenance of his wife offers to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful to consider any grounds of refusal stated by such wife, and the magistrate may make the order aforesaid notwithstanding such offer, if he be satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

**337.** No wife shall be entitled to receive an allowance from her husband under this Chapter, if she is living in adultery, or if without any sufficient reason she refuses to live with her husband, or if they are living separately by consent.

Wife not entitled when living in adultery

\*S.157 (1) of Cap. 77 (Religious Council and Kadis Courts). This chapter does not apply to any claim for maintenance made by a Muslim against a Muslim.

Application for alteration of payments      **338.** On the application of any person receiving, or ordered to pay, a monthly allowance under the provisions of section 336 and on proof of a change in the circumstances of such person, his wife, or child, the magistrate may make such alteration in the allowance ordered as he may think fit.

Evidence to be taken in presence of husband or father      **339.** All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be:

Provided that, if the magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the magistrate may proceed to hear and determine the case *ex parte*. Any order so made may be set aside for good cause shown, on application made within 3 months from the date thereof.

Order enforceable in any district      **340.** A copy of the order of maintenance shall be given to the person for whose maintenance it is made, or to the guardian of such person, and payment shall be enforced by any magistrate on production of the copy of the order, and on the magistrate being satisfied as to the identity of the parties and the non-payment of the sum claimed.

Appeal      **340A.** Any person aggrieved by any order or refusal of a Court made under this Chapter may appeal to the Court to which an appeal ordinarily lies.

### Chapter XXXIV

#### Directions of the Nature of a Habeas Corpus

Power of Court to make certain orders      **341.** The High Court may, whenever it thinks fit, direct —

- (i) that any person be set at liberty who —
- (a) is detained in any prison within Brunei or a warrant of extradition; or

(b) is alleged to be illegally or improperly detained in public or private custody within Brunei;

(ii) that any defendant in custody under a writ of attachment be brought before the Court to be dealt with according to law.

**342.** Every application to bring up before the Court a person detained on a warrant of extradition or alleged to be illegally or improperly detained in custody shall be supported by oral evidence or affidavit stating where and by whom the person is detained and, so far as they are known, the facts relating to such detention with the object of satisfying the Court that there is probable ground for supposing that such person is detained against his will and without just cause.

Form of application

**343.** (1) In any case in which the Court shall order a person in custody to be brought before it a warrant in writing shall be prepared and signed by the Judge or Registrar and sealed with the seal of the Court.

Warrant

(2) Such warrant shall, unless otherwise ordered, be delivered to the applicant who shall cause it to be served personally upon the person to whom it is directed or otherwise as the Court shall direct.

**344.** (1) Whenever the presence of any person detained in a prison situate within Brunei is required in any criminal Court such Court may issue a warrant addressed to the officer in charge of the prison requiring the production of such person before such Court in proper custody at a time and place to be named in such warrant.

Attendance of prisoner in criminal case

(2) The officer in charge of the prison shall cause the person named in such warrant to be brought as directed and shall provide for his safe custody during his absence from prison.

(3) Every such Court may by indorsement on such warrant require the person named therein to be brought up at any time to which the matter wherein such person is required is adjourned.

(4) Every warrant shall be sealed with the seal of the Court and signed by the Judge or Registrar or magistrate as the case may be.

Appeal

**345.** Any person aggrieved by any decision or direction of the Court under this Chapter may appeal to the Court to which an appeal ordinarily lies.

## PART IX SUPPLEMENTARY PROVISIONS

### Chapter XXXV

#### Bail

Bail may be  
discretionary  
or obligatory

**346.** Bail shall be discretionary for the purpose of this Chapter when —

(a) it is declared by any written law to be discretionary in respect of any offence;

(b) the offence is declared by the First Schedule to this Code to be non-bailable; or

(c) the offence alleged against the person arrested or detained is punishable by imprisonment for a term of 2 years or more whether or not it is also punishable by fine.

Bail shall be obligatory in any case in which it is not discretionary.

**347.** (1) When any person other than a person accused of an offence punishable with death, imprisonment for life or imprisonment for 15 years or more is arrested or detained without warrant by a police officer or upon a warrant under which there is no endorsement under section 44 that a security may be taken for his appearance or appears or is brought before a magistrate or Court, and is prepared at any time while in the custody of such officer or at any state of the proceedings before such Court to give bail, such person —

Duty and  
discretion to  
admit bail

(a) shall, if the case is one in which bail is obligatory, be entitled subject to the provisions of this Chapter to be admitted to bail by any police officer not below the rank of Inspector; or by a magistrate or Court; and

(b) may, if the case is one in which bail is discretionary, be admitted to bail in the discretion of such magistrate or Court or any police officer not below the rank of Inspector:

Provided that it shall be lawful for any such officer in exercising this discretion to have regard to any instructions in connection therewith which may be issued by the Public Prosecutor for the guidance of police officers:

Provided further that such officer or Court may instead of taking bail from such person, release him on his executing a bond without sureties for his appearance as is hereinafter provided.

(2) Notwithstanding anything contained in subsection (1) the High Court may in any case direct that any person be admitted to bail irrespective of the offence of which he is accused.

(3) Any Court may at any subsequent stage of any proceedings under this Code —

(a) cause any person who has been released under this section to be arrested and may commit him to custody; or

(b) direct that any bail required by any police officer or any Court of a Magistrate be reduced or increased:

Provided that the Court of Appeal may exercise the power hereby conferred as if the words “of a magistrate” in paragraph (b) had been deleted.

(4) Where any police officer exercises the power of granting bail under this section he shall immediately report the complaint and details of the bail allowed to a magistrate.

Amount of  
bond

**348.** The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case as being sufficient to secure the attendance of the person arrested but shall not be excessive.

Bond to be  
executed

**349.** Before any person is released on bail, or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and when he is released on bail a bond shall also be executed by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

Person to be  
released

**350.** (1) As soon as the bond has been executed the person for whose appearance it has been executed shall be released and when he is in prison the Court admitting him to bail shall issue an order of release to the officer in charge of the prison, and such officer, on receipt of the order, shall release him.

(2) Nothing in this section or in sections 346 or 347 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

**351.** If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court admitting him to bail may issue a warrant of arrest directing that the person released on bail be brought before it, and may order him to find sufficient sureties, and on his failing so to do may commit him to prison.

When warrant of arrest may be issued against person bailed

**352.** (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a magistrate to discharge the bond either wholly or so far as relates to the applicants.

Sureties may apply to have bond discharged. Procedure subsequent thereto

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

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

(4) A surety may at any time arrest the person for whose attendance and appearance he is a surety and forthwith bring him before a magistrate, who shall thereupon discharge such surety's bond and shall call upon such person to find other sufficient surety, and if he fails to do so shall commit him to custody.

**353.** Any person aggrieved by any order or refusal of any inferior Court made under this Chapter may appeal to the Court to which an appeal ordinarily lies.

Appeal

## Chapter XXXVI

## Provisions as to Bonds

Deposit in-  
stead of bond

**354.** When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may permit or require him to deposit a sum of money to such amount as the Court or officer may fix, in lieu of the penalty in such bond.

Procedure on  
forfeiture of  
bond

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

(2) If sufficient cause is not shown and the penalty is not paid the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the property belonging to such person.

(3) If such penalty be not paid, and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment for a term which may extend to 6 months.

(4) The Court may, in its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

Appeal

**356.** Any person aggrieved by any order of any inferior Court made under this Chapter may appeal to the Court to which an appeal ordinarily lies.



## Chapter XXXVII

## Disposal of Property the Subject of Offences

**357.** (1) When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for custody and disposal of property in certain cases

(2) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(3) When the High Court makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by a magistrate.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of subsection (2) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.

*Explanation*

In this section the term "property" includes in the case of property regarding which an offence appears to have been committed, not

only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Direction in lieu of order

**358.** In lieu of itself making an order under the last preceding section the Court may direct the property to be delivered to a magistrate, who shall, in such cases, deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent person of money found on accused

**359.** When any person is convicted of any offence which includes or amounts to theft or receiving stolen property and it is proved that any other person has bought the stolen property from him without knowing or having reason to believe that the same was stolen and that any money has, on his arrest, been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order

**360.** The High Court may direct any order under sections 357 or 359 made by a Magistrate's Court to be stayed pending consideration by the High Court and may modify, alter or annul such order.

Destruction of libellous and other matter

**361.** (1) On a conviction under sections 292, 293, 501 or 502 of the Penal Code the Court may order the destruction of all the copies of the thing in respect of which the conviction was had and which are in the custody of the Court or remain in the possession of the person convicted.

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(2) The Court may in like manner, on a conviction under sections 272, 273, 274 or 275 of the Penal Code, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

**362.** (1) Whenever a person is convicted of an offence attended by criminal force and it appears to the Court that by such force any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order such property to be restored to the possession of the person who has been dispossessed.

Restoration  
of possession  
of immovable  
property

(2) No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

**363.** (1) The seizure or finding by any police officer of property taken under section 24 or alleged or suspected to have been stolen or found under circumstances which create suspicion of the commission of any offence shall be forthwith reported to a magistrate, who shall make such order as he thinks fit respecting the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

Procedure  
by police on  
seizure of  
property

(2) If the person so entitled is known, the magistrate may order the property to be delivered to him on such conditions (if any) as the magistrate thinks fit. If such person is unknown the magistrate may detain it, and shall in such case issue a public notification specifying the articles of which such property consists and requiring any person who may have a claim thereto to appear before him and establish his claim within 6 months from the date of such notification.

(3) Such notification shall, if the value of the property exceeds \$500, be published in the *Government Gazette*.

**364.** (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government and may be sold under the order of a magistrate.

Procedure  
where no  
claim estab-  
lished

(2) In the case of an order made under this section an appeal shall lie to the Court to which an appeal ordinarily lies.

Procedure where owner unknown

**365.** If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or the magistrate to whom its seizure or finding is reported is of opinion that its sale would be for the benefit of the owner, the magistrate may at any time direct it to be sold, and the provisions of sections 363 and 364 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

Order suspended pending appeal

**365A.** No order made under this Chapter of the Code shall come into force until after the expiration of the time prescribed for instituting an appeal or, if an appeal has been instituted, until the dismissal of the appeal, in the proceedings in respect of which such order was made unless the property is subject to speedy or natural decay in which case a Judge or magistrate may, after recording such evidence as he thinks necessary, order its disposal immediately.

### Chapter XXXVIII

#### Transfer of Criminal Cases

Power to transfer cases

**366.** (1) Whenever it is made to appear to the High Court —

(a) that a fair and impartial inquiry or trial cannot otherwise be had; or

(b) that some question of law of unusual difficulty is likely to arise; or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same; or

(d) that an order under this section will tend to the general convenience of the parties or witnesses; or

(e) that such an order is expedient for the ends of justice, or is required by any provision of this Code;

the High Court may order that any offence be inquired into or tried by any specified Court of a Magistrate competent to inquire into or try such offence, or that any particular criminal case be transferred to and tried before the High Court, or that a person committed for trial in one place be tried in another place.

(2) The High Court may exercise any of its powers under this section either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

**367.** (1) Every application for the exercise of the power conferred by the last preceding section may be made personally or in writing and when required shall be supported by affidavit. Application for transfer

(2) When an accused person makes an application under this section, the High Court may, if it thinks fit, direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the expenses of the prosecution.

## Chapter XXXIX

### Irregularities in Proceedings

**368.** *No section.*

**369.** If any Court before which a confession or other statement of an accused person recorded under sections 119 or 220 is tendered or has been received in evidence finds that Procedure when confession irregularly taken

any of the provisions of such section have not been complied with by the magistrate recording the statement, it shall take evidence that such person duly made the statement recorded and, if it is satisfied of the same, such statement shall be admitted if the error has not injured the accused as to his defence on the merits.

Omission to  
frame charge

**370.** (1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed unless, in the opinion of the Court of appeal or revision, a failure of justice has been occasioned thereby.

(2) If the appellate or revising Court thinks that a failure of justice has been occasioned by the omission to frame a charge it shall order that a charge be framed and that a new trial be held.

Irregularities  
not to vitiate  
proceedings

**371.** (1) Subject to the provisions of sections 369 and 370, no finding, sentence or order passed or made by a Court of competent jurisdiction shall be reversed or altered on account of —

(a) any error, omission or irregularity in the complaint, summons, warrant, charge, judgment or other proceedings before or during trial, or in any inquiry or other proceeding under this Code; or

(b) the want of any sanction required by section 132; or

(c) the omission to inform an accused person of his rights under section 221; or

(d) the want of qualification of any assessor; or

(e) the improper admission or rejection of any evidence; or

(f) any misdirection in any charge to assessors;

unless such error, omission, improper admission or rejection of evidence, irregularity, want or misdirection has occasioned a failure of justice.

(2) In determining whether any error, omission, or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the obligation could and should have been raised at an earlier stage in the proceedings.

**372.** Where owing to the illiteracy or lack of understanding of any person against whom any proceedings under this Code are being taken, or for other valid reason, it is not in the opinion of the Chief Justice reasonably necessary or practicable to carry out any provision of this Code, the Chief Justice may authorise any Court or magistrate to dispense with such provision, and may direct either generally or in any particular case or class or case that any Court or magistrate shall, notwithstanding any of the provisions of this Code, proceed in such manner as the Chief Justice shall direct.

Power of  
Chief Justice  
to dispense  
with provi-  
sions of Code

**373.** No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto, but all persons aggrieved by such irregularity may recover full satisfaction for the special damage caused thereby in any Court of competent jurisdiction.

Unlawful  
distress:  
irregularity  
no trespass

## Chapter XL

### The Public Prosecutor

**374.** (1) The Attorney General shall be the Public Prosecutor and shall have the general direction and control of criminal prosecutions and proceedings under this Code or under any other written law.

Public Pro-  
secutor and  
Deputies

(2) His Majesty may from time to time appoint fit and proper persons to be Deputy Public Prosecutors who shall be under the general control and direction of the Public Prosecutor and may exercise any or all of the powers under this Code as may be delegated to him by the Public Prosecutor.

(3) The Public Prosecutor may by notification in the *Government Gazette* delegate all or any of the powers vested in him by this Code to any Deputy Public Prosecutor and the exercise of these powers by such Deputy Public Prosecutor shall then operate as if they had been exercised by the Public Prosecutor, provided that the Public Prosecutor may in like manner revoke any delegation made by him under this section.

Conduct of  
prosecutions

**375.** (1) Every criminal prosecution and every inquiry shall be conducted —

(a) by the Public Prosecutor or a Deputy Public Prosecutor, or by some person expressly authorised in writing by the Public Prosecutor or His Majesty; or

(b) by a police officer; or

(c) by an officer of a Government Department or of any public utility company in matters which concern his Department or company.

(2) In cases where no such officer is available the prosecution shall be conducted as the Public Prosecutor or the Court shall direct.

(3) In non-seizable cases any private person may appear in person to prosecute for an offence against his own person or property.



(4) In any case in which a private person is appearing in person under subsection (3) the Public Prosecutor may at any stage of the proceedings by notice in writing or by oral intimation to the Court given by a person or officer authorised to conduct the case under the provisions of subsection (1) or subsection (2) intervene and assume the conduct of such proceedings and as from the date of any such intervention shall be deemed to be a party to the proceedings in lieu of such private person.

(5) The provisions of subsection (4) shall apply to any appeal in a criminal prosecution to which the Public Prosecutor is not a party and, subject to the provisions of 299, shall apply to proceedings by way of revision under Chapter XXIX.

(6) In any case not falling within subsection (3) the proceedings shall be deemed to be conducted by the Public Prosecutor and he shall for all purposes be deemed to be party thereto.

**376.** (1) The Public Prosecutor may at any time call for a copy of the report of any police investigation or for a copy of the record of any preliminary inquiry that has been held under Chapter XVII of this Code, or may direct generally that in any specified offence or offences such report or record shall be sent to him, and the officer or magistrate shall send such report or record accordingly.

Public Prosecutor may call for police report of record of preliminary inquiry

(2) Notwithstanding that the Public Prosecutor has not called for such report or record, the officer making such report or the magistrate holding such inquiry, if he is in doubt whether a charge can properly be made, or what charge ought to be made against the accused, or what evidence or further evidence ought to be taken, may send a copy of the report or record to the Public Prosecutor.

(3) Pending the instructions of the Public Prosecutor the inquiry, trial or further consideration of the case shall be

adjourned, unless the Public Prosecutor shall otherwise direct.

Power of  
Public Pro-  
secutor to  
enter *nolle*  
*prosequi*

**377.** (1) In any criminal case and at any stage thereof before judgment, the Public Prosecutor may, either personally or in writing, inform the Court that he intends that the proceedings shall not continue, and thereupon the accused shall be at once discharged in respect of such charges as may be specified, and if he has been committed to prison shall be released or, if on bail, his bond and that of his sureties, if any, shall be discharged.

(2) Such discharge shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

When Public  
Prosecutor  
may direct  
magistrate to  
take further  
evidence

**378.** (1) If the Public Prosecutor is of opinion that a criminal offence is disclosed and that further proceedings should be taken against the accused but that the evidence already obtained or taken is in any particular or respect defective and is not sufficient to afford a foundation for a full and proper trial, he may by an order in writing signed by himself require the police to make further investigation or require the magistrate to hold an inquiry or, if an inquiry has been held, to take such further evidence as may be specified or indicated in the order either by way of examining any witnesses who have already given their testimony, or otherwise to continue the inquiry.

(2) Upon the order of the Public Prosecutor being received by the magistrate he shall cause the accused person to appear before him and shall hold or shall resume and proceed with the inquiry in pursuance of such order.

(3) If an inquiry or supplemental inquiry is directed to be held the accused person, if at large on bail, shall be called upon by written notice to appear before the Magistrate's Court, and if in prison shall by an order of the

magistrate be brought before the Court on a day appointed therefor.

(4) All the provisions in respect of the original inquiry shall be applicable, so far as may be, to the supplemental inquiry.

(5) The magistrate shall at the termination of the inquiry or supplemental inquiry forthwith transmit a copy of the record to the Public Prosecutor.

(6) A supplemental inquiry may be continued by a magistrate other than the magistrate who conducted the original inquiry.

(7) The Public Prosecutor may in lieu of or in addition to requiring the magistrate to take further evidence under subsection (1) give notice to the accused that the prosecution intends to call further evidence at the trial and indicating the nature thereof:

Provided that failure to give such notice or that the notice does not indicate with sufficient clarity the nature of the evidence to be called shall not render such evidence inadmissible but shall entitle the accused to such adjournment, if any, as the Court shall consider may in the interests of justice be required.

**379.** In addition to the powers conferred on him by sections 375, 377 and 378, the Public Prosecutor upon receiving a copy of the report of a police investigation or the record of an inquiry may —

Public Prosecutor may alter charge and give instructions

(a) frame or alter or re-draw the charge or charges against the accused or frame an additional charge or charges against the accused having regard to the provisions of this Code as to the form of charges; and

(b) give such instructions with regard to the inquiry as he may consider desirable and the magistrate shall, subject to this Code, carry into effect such instructions and shall conduct the inquiry accordingly.

Affidavits,  
before whom  
sworn

## Chapter XLI

### Miscellaneous

**380.** (1) Any affidavit if otherwise admissible may be used in a Criminal Court if it is sworn or affirmed —

(a) in Brunei, before any Judge, Registrar, Deputy Registrar, Magistrate or other person lawfully authorised to administer oaths;

(b) elsewhere in the British Commonwealth, before any Judge, Court, Notary Public or person lawfully authorised to administer oaths;

(c) in any other place, before any Consul or Vice-Consul of Brunei;

(2) The Court shall take judicial notice of the seal or signature (as the case may be) of any Judge, Court, Notary Public, Consul, Vice-Consul or other person appended or subscribed to any affidavit.

**380A.** (1) Any document purporting to be a report under the hand of any of the persons mentioned in subsection (2) of this section upon any person, matter or thing examined or analysed by him may be given in evidence in any enquiry, trial or other proceeding under the Supreme Court Act, the Subordinate Courts Act, or the Criminal Procedure Code, unless such person shall be required to attend as witness —

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(a) by the Court; or

(b) by an accused upon giving notice in writing to the prosecution not less than 7 clear days before the commencement of the trial;

Provided always that in any case in which the prosecution intends to give in evidence any such report, a copy thereof shall be delivered to the accused not less than 14 clear days before the commencement of the trial, unless the Court otherwise allows.

(2) The following are persons to whom the provision of subsection (1) applies —

(a) Government medical officers;

(b) any person employed for the time being wholly or partly on analytical work in any department of the Government;

(c) any Chemist or any person employed for the time being on analytical work by the Government of the Federation of Malaysia or Singapore;

(d) any person appointed as document examiner by His Majesty in Council or by the Government of the Federation of Malaysia or Singapore;

(e) any inspector of weights and measures duly appointed as such under the provisions of any written law;

(f) any person to whom this section may be declared by His Majesty in Council by notification in the *Gazette* to apply.

(3) Persons referred to in subsection (2) shall by this Code be bound to state the truth in reports made under their hands.

Power of Court to summon and examine persons

**381.** Any Court may at any stage of any inquiry, trial or other proceeding under this Code summon any person as a witness, or examine any person in attendance though not summoned as a witness, or recall and re-examine any person already examined, and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Order for payment of costs of prosecution and compensation

**382.** (1) When a person is convicted of any crime or offence the Court may, in its discretion, make either or both of the following orders against him in addition to any other punishment, namely —

(a) an order for the payment by him of the costs of his prosecution or such part thereof as the Court directs;

(b) an order for the payment by him of a sum to be fixed by the Court by way of compensation to any person, or the representatives of any person, injured in respect of his person, character or property by the crime or offence for which the sentence is passed.

(2) The Court shall specify the person to whom any sum in respect of costs or compensation as aforesaid is to be paid, and payment thereof may be enforced in the same manner as if the amount thereof were a fine, or in such other manner as the law for the time being directs.

(3) The Court may direct that an order for payment of costs, or an order for payment of compensation, shall have priority, and, if no direction be given, an order for payment of costs shall have priority over an order for payment of compensation.

(4) An order for payment under this section shall not prejudice any right to a civil remedy for the recovery of any property or for the recovery of damages but the Court shall take into account the amount of compensation paid under the order.

(5) Every order made under this section by a magistrate shall be appealable to the Court to which an appeal ordinarily lies.

(6) The powers conferred by this section may be exercised on appeal, reference or revision.

**383.** In every criminal case the Court may in its discretion order payment by Government to the prosecutor and to the witnesses both for the prosecution and for the defence, or to such of them as it thinks fit, of the expenses incurred by them severally in and about attending the Court, and also compensation for their trouble and loss of time, subject to such rules as are prescribed.

Payment of expenses of prosecutors and witnesses

**384.** His Majesty in Council may make rules as to the rates or scales of payment of the expenses or compensation to be ordered as aforesaid and concerning the form of the certificates hereinafter mentioned and the details to be inserted therein.

Rules as to rates of payment

**385.** (1) The magistrate who commits a case for trial shall certify under his hand in the form above mentioned the amount of expenses and compensation allowable to each prosecutor and witness in respect of his attendance before him.

Certificate of magistrate

(2) The amount of any other expenses and compensation to the prosecutors and witnesses to whom the High Court orders payment shall be ascertained by the Registrar of the Court.

Reward for unusual exertion

**386.** Whenever it appears to any Court that a private person has shown unusual courage, diligence or exertion in the apprehension of a person accused of having committed, attempted to commit or abetted an offence punishable with death or rigorous imprisonment, such Court may order payment to him by Government of any sum not exceeding \$500.

Compensation for family of person killed in arresting

**387.** If any person is killed in endeavouring to arrest or to keep in lawful custody a person accused as aforesaid His Majesty in Council may order payment by Government to the wife, husband, parent or child of the deceased of such sum or sums as appear reasonable in compensation for the loss sustained.

Recovery of money payable under order

**388.** Any money (other than a fine) payable by virtue of any order made under this Code shall be recoverable as if it were a fine.

Superior police officer may exercise powers of subordinate officers

**389.** Any police officer to whom an officer in charge of a police station is subordinate may exercise the same powers as may be exercised by the officer in charge of the police station and any police officer to whom an officer in charge of a police district is subordinate may exercise the same powers as may be exercised by the officer in charge of the police district.

Power of police to seize property suspected of being stolen

**390.** Any member of the Royal Brunei Police Force may seize any property which is alleged or may be suspected to have been stolen, or which is found under circumstances which create suspicion that an offence has been committed, and such member, if subordinate to the officer in charge of the nearest police station, shall forthwith report such seizure to such officer.



**391.** When any person is released on bail, or on his own bond, he shall give to the Court or officer taking such bail or bond an address at which service upon him of all notices and process may be made; and in any case where such person cannot be found, or for other reasons such service on him cannot be effected, any notice or process left for such person at such address shall be deemed to have been duly served upon him.

Person released on bail to give address for service

**392.** Upon complaint made to a magistrate on oath of the abduction or unlawful detention of a woman or of a female child under the age of 14 years for any unlawful purpose he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Power to compel restoration of abducted persons

**393.** (1) Whenever any person causes a police officer to arrest another person if it appears to the Judge or magistrate who takes cognisance of the case that there was no sufficient ground for causing such arrest the Judge or magistrate may award such compensation, not exceeding \$500, to be paid by the person so causing the arrest of each person so arrested for his loss of time and any expenses incurred by him in the matter as the Judge or magistrate shall think fit.

Compensation for giving in charge groundlessly

(2) All compensation awarded under this section may be recovered as if it were a fine.

(3) Such compensation shall be no bar to an action for false imprisonment.

**394.** No magistrate shall, except with the permission of the High Court, try or commit for trial any case in which he is a party or personally interested.

Magistrate not to act where interested

*Explanation*

A magistrate shall not be deemed to be a party or personally interested within the meaning of this section in any case by reason only

that he is concerned therein in a public capacity, or by reason only that he has viewed the place in which any transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Public servants not to bid at sales under this Code

**395.** A public servant, having any duty to perform in connection with the sale of any property under this Code, shall not purchase or bid for the property.

When receivers, etc., charged evidence of other cases allowed

**396.** Where proceedings are taken against any person for having received goods knowing them to be stolen or for having in his possession stolen property, evidence may be given at any stage of the proceedings that there was found in the possession of such person other property stolen within the preceding period of 12 months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property to be stolen which forms the subject of the proceedings taken against him.

When evidence of previous conviction may be given

**397.** Where proceedings are taken against any person for having received goods knowing them to be stolen or for having in his possession stolen property and evidence has been given that the stolen property has been found in his possession, then if such person has within 5 years immediately preceding been convicted of any offence involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings and may be taken into consideration for the purpose of proving that the accused knew the property which was proved to be in his possession to have been stolen.

Forms

**398.** The forms in the Second Schedule, with such variation as the circumstances of each case may require, may be used for the respective purposes therein mentioned.

Application of fines

**399.** Any Court imposing any fines under the authority of any law for the time being in force may award any portion thereof not exceeding half to an informer.

400. The Chief Justice may from time to time —

Power to  
make rules  
and frame  
forms

(a) make rules for the preparation and transmission of returns and statements to be prepared and submitted by Magistrates' Courts;

(b) frame forms for every proceeding in the said Courts for which he thinks a form should be provided;

(c) amend or alter the forms in the Second Schedule.

## FIRST SCHEDULE

(Section 8 (1)(b))

## TABULAR STATEMENT OF OFFENCES UNDER THE PENAL CODE

*Explanatory Note*—1. The entries in the Second and Seventh columns of this Schedule, headed respectively “Offence” and “Maximum Punishment under the Penal Code,” are not intended as definitions of the offences and punishment described in the several corresponding sections of the Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the First column.

2. The entries in the Third column of this Schedule are not intended in any way to restrict the powers of arrest without warrant which may be lawfully exercised by Police Officers.

3. The Eighth column must be read in conjunction with sections 8 and 9 of the Code. All cases under the Penal Code may be tried by the High Court and when a Court of a Magistrate is mentioned it implies not that the High Court has no jurisdiction but that the Court of a Magistrate has concurrent jurisdiction with the High Court to try the case. Where the maximum punishment prescribed may be awarded by the Court of a Magistrate the case should ordinarily be tried by that Court, but where the maximum punishment is greater than that which the Court of a Magistrate may award it is a matter of discretion which Court should try the case. (See section 189 of the Code.)

4. In the Seventh column the word “imprisonment,” except where otherwise stated, means imprisonment of either description.

## CHAPTER V—ABETMENT

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	According as the offence abetted is compoundable or not	The same punishment as for the offence abetted	The Court by which the offence abetted is triable

110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	According as the offence abetted is compoundable or not	The same punishment as for the offence abetted	The Court by which the offence abetted is triable
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso	Ditto	Ditto	Ditto	Ditto	The same punishment as for the offence intended to be abetted	The Court by which the offence abetted is triable
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor	Ditto	Ditto	Ditto	Ditto	The same punishment as for the offence committed	The Court by which the offence abetted is triable
114	Abetment of any offence, if abettor is present when offence is committed	Ditto	Ditto	Ditto	Ditto	Ditto	The Court by which the offence abetted is triable
115	Abetment of an offence, punishable with death or with imprisonment for 15 years, if the offence be not committed in consequence of the abetment	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 7 years and fine	The Court by which the offence abetted is triable
115	If an act which causes harm be done in consequence of the abetment	Ditto	Ditto	Ditto	Ditto	Imprisonment for 14 years and fine	The Court by which the offence abetted is triable

CHAPTER V—ABETMENT—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment	Ditto	Ditto	According as the offence abetted is bailable or not	Ditto	Imprisonment extending to a quarter part of the longest term and of any description provided for the offence and fine	The Court by which the offence abetted is triable
116	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence	Ditto	Ditto	Ditto	Ditto	Imprisonment extending to half of the longest term and of any description provided for the offence and fine	The Court by which the offence abetted is triable
117	Abetting the commission of an offence by the public, or by more than 10 persons	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years or/and fine	The Court by which the offence abetted is triable
118	Concealing a design to commit an offence punishable with death or imprisonment for 15 years if the offence be committed	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	Not bailable	According as the abetted is compoundable or not	Imprisonment for 7 years and fine	The Court by which the offence abetted is triable
118	If the offence be not committed	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	The Court by which the offence abetted is triable

119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed	Ditto	Ditto	According as the offence abetted is bailable or not	Ditto	Imprisonment extending to half of the longest term and of any description provided for the offence and fine	The Court by which the offence abetted is triable
119	If the offence be punishable with death or imprisonment for 15 years	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 10 years	The Court by which the offence abetted is triable
119	If the offence be not committed	Ditto	Ditto	According as the offence abetted is bailable or not	Ditto	Imprisonment extending to a quarter part of the longest term and of any description provided for the offence and fine	The Court by which the offence abetted is triable
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed	Ditto	Ditto	Ditto	Ditto	Ditto	The Court by which the offence abetted is triable
120	If the offence be not committed	Ditto	Ditto	Ditto	Ditto	Imprisonment extending to one eighth part of the longest term and of the description provided for the offence, or fine, or both	The Court by which the offence abetted is triable

## CHAPTER VA—CRIMINAL CONSPIRACY

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
120B	Criminal conspiracy to commit an offence punishable with death or imprisonment for 2 years or upwards	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence which is the object of the conspiracy	According as the offence which is the object of the conspiracy is bailable or not	Not compoundable	The same punishment as for the abetment of the offence	High Court where the offence which is the object of the conspiracy is triable exclusively by such Court. In all other cases High Court or Court of a Magistrate Ditto
	Criminal conspiracy in any other case	Shall not arrest without warrant	Summons	Bailable	Ditto	Imprisonment for 6 months and fine	

## CHAPTER VI—OFFENCES AGAINST THE STATE

121	Waging war against His Majesty	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Death, or imprisonment for life	High Court
121A	Conspiracy to commit offences punishable by section 121	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for life	High Court
122	Collecting, men, arms, or ammunition or otherwise preparing to wage war against His Majesty	Ditto	Ditto	Ditto	Ditto	Imprisonment for life	High Court
123	Concealing the existence of a design to wage war	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	High Court



CHAPTER VII—OFFENCES RELATING TO THE ARMY AND NAVY

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 15 years and fine	High Court
132	Abetment of mutiny, if mutiny is committed in consequence thereof	Ditto	Ditto	Ditto	Ditto	Death or imprisonment for 15 years and fine	High Court
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in execution of his office	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
134	Abetment of such assault, if the assault is committed	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
135	Abetment of the desertion of an officer, soldier or sailor	Ditto	Ditto	Bailable	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
136	Harbouring such an officer, soldier or sailor who has deserted	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
137	Deserter concealed on board merchant-vessel, through negligence of master or person in thereof	Shall not arrest without warrant	Summons	Ditto	Ditto	Fine of \$4,000	Court of a Magistrate

CHAPTER VII—OFFENCES RELATING TO THE ARMY AND NAVY—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence	May arrest without warrant	Warrant	Ditto	Ditto	Imprisonment for 6 months and fine	Court of a Magistrate
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier	Ditto	Summons	Ditto	Ditto	Imprisonment for 3 months and fine of \$4,000	Court of a Magistrate

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY

143	Being member of an unlawful assembly	May arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for 6 months and fine	Court of a Magistrate
144	Joining an unlawful assembly armed with any deadly weapon	Ditto	Warrant	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate

147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
148	Rioting, armed with any deadly weapon	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence	According as arrest may be made without warrant for the offence or not	According as a warrant or summons may issue for the offence abetted	According as the offence is bailable or not	Ditto	The same as for the offence	The Court by which the offence is triable
150	Hiring, engaging or employing persons to take part in an unlawful assembly	May arrest without warrant	According to the offence committed by the person hired, engaged or employed	Ditto	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly	The Court by which the offence is triable
151	Knowingly joining or continuing in any assembly of 5 or more persons after it has been commanded to disperse	Ditto	Summons	Bailable	Ditto	Imprisonment for 6 months and fine	Court of a Magistrate
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto	Warrant	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
153	Wantonly giving provocation with intent to cause riot if rioting be committed	Ditto	Ditto	Ditto	Ditto	Imprisonment for one year and fine	Court of a Magistrate
153	If not committed	Ditto	Summons	Ditto	Ditto	Imprisonment for 6 months and fine	Court of a Magistrate

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
153A	Promoting enmity between classes	Shall not arrest without warrant	Warrant	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
154	Owner or occupier of land not giving information of riot, etc.	Ditto	Summons	Ditto	Ditto	Fine of \$4,000	Court of a Magistrate
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it	Ditto	Ditto	Ditto	Ditto	Fine	Court of a Magistrate
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
157	Harbouring persons hired for an unlawful assembly	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 6 months and fine	Court of a Magistrate
158	Being hired to take part in an unlawful assembly or riot	Ditto	Ditto	Ditto	Ditto	Imprisonment for 6 months and fine	Court of a Magistrate

158	Or to go armed	Ditto	Warrant	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
160	Committing affray	Shall not arrest without warrant	Summons	Ditto	Ditto	Imprisonment for one month and fine of \$400	Court of a Magistrate

CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 3 years, or fine, or both	Court of a Magistrate
162	Taking a gratification in order by corrupt or illegal means to influence a public servant	Shall not arrest without warrant	Summons	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
163	Taking a gratification for the exercise of personal influence a public servant	Ditto	Ditto	Ditto	Ditto	Imprisonment for one year and fine	Court of a Magistrate
164	Abetment by a public servant of the offences defined in the last 2 preceding clauses with reference to himself	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years and fine	Court of a Magistrate

CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
166	Public servant disobeying a direction of the law with intent to cause injury to any person	Shall not arrest without warrant	Ditto	Ditto	Ditto	Simple imprisonment for one year and fine	Court of a Magistrate
167	Public servant framing an incorrect document with intent to cause injury	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for 3 years and fine	Court of a Magistrate
168	Public servant unlawfully engaging in trade	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one year and fine	Court of a Magistrate
169	Public servant unlawfully buying or bidding for property	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years and fine, and confiscation of property if purchased	Court of a Magistrate
170	Personating a public servant	May arrest without warrant	Warrant	Ditto	Ditto	Simple imprisonment for 2 years and fine	Court of a Magistrate
171	Wearing garb or carrying token used by public servant with fraudulent intent	Ditto	Summons	Ditto	Ditto	Imprisonment for 3 months and fine of \$800	Court of a Magistrate

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172	Abscending to avoid service of summons or other proceeding from a public servant	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Simple imprisonment for one month and fine of \$2,400	Court of a Magistrate
172	If summons or notice require attendance in person, etc., in a Court of Justice	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months and fine of \$4,000	Court of a Magistrate
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one month and fine of \$2,000	Court of a Magistrate
173	If summons or notice requires attendance in person, etc., in a Court of Justice	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months and fine of \$4,000	Court of a Magistrate
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one month or fine of \$250, or both	Court of a Magistrate
174	If the order requires personal attendance, etc., in a Court of Justice	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months and fine of \$4,000	Court of a Magistrate

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one month and fine of \$2,000	Court of a Magistrate
175	If the document is required to be produced in or delivered to a Court of Justice	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Simple imprisonment for 6 months and fine of \$4,000	Court of a Magistrate
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one month and fine of \$2,000	Court of a Magistrate
176	If the notice or information required respects the commission of an offence, etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months and fine of \$4,000	Court of a Magistrate
177	Knowingly furnishing false information to a public servant	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate



177	If the information required respects the commission of an offence, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
178	Refusing oath when duly required to take oath by a public servant	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months and fine of \$4,000	Court in which the offence is committed
179	Being legally bound to state truth, and refusing to answer questions	Ditto	Ditto	Ditto	Ditto	Ditto	Court in which the offence is committed
180	Refusing to sign a statement made to a public servant when legally required to do so	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 3 months and fine of \$2,000	Court in which the offence is committed
181	Knowingly stating to a public servant on oath as true that which is false	Ditto	Warrant	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person	Ditto	Ditto	Ditto	Ditto	Imprisonment for 6 months and fine of \$4,000	Court of a Magistrate
183	Resistance to the taking of property by the lawful authority of a public servant	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate

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CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
184	Obstructing sale of property offered for sale by authority of a public servant	Ditto	Ditto	Ditto	Ditto	Imprisonment for one month and fine of \$2,000	Court of a Magistrate
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for one month and fine of \$800	Court of a Magistrate
186	Obstructing public servant in discharge of his public functions	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 months and fine of \$2,000	Court of a Magistrate
187	Omission to assist public servant when bound by law to give such assistance	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one month and fine of \$800	Court of a Magistrate

187	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months and fine of \$4,000	Court of Magistrate	a
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one month and fine of \$800	Court of Magistrate	a
188	If such disobedience causes danger to human life, health or safety, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 6 months and fine of \$4,000	Court of Magistrate	a
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do any official act	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of Magistrate	a
190	Threatening any person to induce him to refrain from making a legal application for protection from injury	Ditto	Ditto	Ditto	Ditto	Imprisonment for one year and fine	Court of Magistrate	a

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
193	Giving or fabricating false evidence in a judicial proceeding	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 7 years and fine	High Court
193	Giving or fabricating false evidence in any other case	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Rigorous imprisonment for 15 years and fine	High Court
194	If innocent person be thereby convicted and executed	Ditto	Ditto	Ditto	Ditto	Death, or as above	High Court
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for 7 years upwards	Ditto	Ditto	Ditto	Ditto	The same as for the offence	The Court by which the offence is triable
196	Using in a judicial proceeding evidence known to be false or fabricated	Ditto	Ditto	According as the offence of giving such evidence is bailable or not	Ditto	The same as for giving or fabricating false evidence	High Court

197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence	Ditto	Ditto	Bailable	Ditto	The same as for giving false evidence	Court of a Magistrate
198	Using as a true certificate one known to be false in a material point	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
199	False statement made in any declaration which is by law receivable as evidence	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
200	Using as true any such declaration known to be false	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
201	Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender, if a capital offence	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
201	If punishable with imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	High Court
201	If punishable with less than 10 years imprisonment	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	High Court or Court of a Magistrate

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
202	Intentional omission to give information of an offence by a person legally bound to inform.	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 6 months and fine	Court of a Magistrate
203	Giving false information respecting an offence committed	Ditto	Warrant	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
204	Secreting or destroying any document to prevent its production as evidence	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate

206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of Magistrate	a
207	Claiming property without right or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Magistrate	a
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Magistrate	a
209	False claim in a Court of Justice	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of Magistrate	a
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of Magistrate	a
211	False charge of offence made with intent to injure	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 2 years and fine	Court of Magistrate	a

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
211	If offences charged be punishable with imprisonment for 7 years and upwards	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
211	If offences charged be capital, or punishable with imprisonment for 15 years	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
212	Harbouring an offender, if the offence be capital	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 5 years and fine	Ditto
212	If punishable with imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
212	If punishable with imprisonment for one year and not for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence and fine	Court of a Magistrate
213	Taking gift, etc., to screen an offender from punishment, if the offence be capital	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court



213	If punishable with imprisonment for 10 years	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
213	If with imprisonment for less than 10 years	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence and fine	Court of a Magistrate
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
214	If punishable with imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
214	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence and fine	Court of a Magistrate
215	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
216	Harbouring an offender who has escaped from whose apprehension has been ordered, if the offence be capital	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 7 years and fine	High Court

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
216	If punishable with imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
216	If with imprisonment for one year and not for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence and fine	Court of a Magistrate
216A	Harbouring gang-robbers	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine	High Court
216B	Harbouring suspected bad characters	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 3 months or fine of \$2,000 and cancellation of any licence for sale of intoxicating liquors, etc.	Court of a Magistrate
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture	Shall not arrest without warrant	Summons	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate

218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture	Ditto	Warrant	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
220	Commitment for trial or confinement by any person having authority who knows that he is acting contrary to law	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
221	If punishable with imprisonment for 10 years	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 3 years and fine	Court of a Magistrate

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
221	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 15 years and fine	High Court
222	If under sentence of imprisonment for 10 years or upwards	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Ditto
222	If under sentence of imprisonment for less than 10 years, or lawfully committed to custody	Ditto	Ditto	Bailable	Ditto	Imprisonment for 3 years, or fine, or both	Court of a Magistrate
223	Escape from confinement negligently suffered by a public servant	Ditto	Summons	Ditto	Ditto	Simple imprisonment for 2 years and fine	Court of a Magistrate

224	Resistance or obstruction by a person to his lawful apprehension or escaping from custody	May arrest without warrant	Warrant	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
225	If charged with an offence punishable with imprisonment for 10 years	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
225	If charged with a capital offence	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
225	If the person is sentenced to imprisonment for 10 years or upwards	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
225	If under sentence of death	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years and fine	Ditto
225A	Intentional omission to apprehend, or sufferance of escape, on part of public servant	Shall not arrest without warrant	Ditto	Bailable	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
225A	Negligent omission to do same	Ditto	Summons	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 6 months and fine	Court of a Magistrate
226	Unlawful return from deportation	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 7 years and fine	High Court
227	Violation of condition of remission of punishment	Shall not arrest without warrant	Summons	Ditto	Ditto	Punishment of original sentence; or, if part of the punishment has been undergone, the residue	The Court by which the original offence was triable
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding	Ditto	Ditto	Bailable	Ditto	Simple imprisonment for 6 months and fine of \$8,000	Court of a Magistrate
228A	Contempt of Court not otherwise provided for	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months and fine of \$4,000	Court of a Magistrate
229	Personation of an assessor	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
229A	Offences for which no special punishment is provided	Ditto	Ditto	Ditto	Ditto	Fine of \$800	Ditto

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

232	Counterfeiting or performing any part of the process of counterfeiting coin	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 15 years and fine	High Court
234	Making, buying or selling instrument for the purpose of counterfeiting coin	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Ditto
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
236	Abetting in Brunei the counterfeiting out of Brunei of coin	Ditto	Ditto	Ditto	Ditto	The punishment provided for abetting the counterfeiting of such coin within Brunei	Ditto
238	Import or export of counterfeiting coin, knowing the same to be counterfeit	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
240	Delivery of coin possessed with knowledge that it is counterfeit	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
241	Delivery of coins as genuine, which, when first possessed, the deliverer did not know to be counterfeit	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 2 years and fine of 10 times the value of the coin	Court of a Magistrate

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
243	Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
247	Fraudulently or dishonestly diminishing weight or altering the composition of coin	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
249	Altering appearance of coin with intent that it shall pass as coin of a different description	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
251	Delivery of coin possessed with the knowledge that it is altered	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
253	Possession of coin by person who knew it to be altered when he became possessed thereof	Ditto	Ditto	Ditto	Ditto	Imprisonment for 5 years and fine	Court of a Magistrate



254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine of 10 times the value of the coin	Court of a Magistrate
255	Counterfeiting a Government stamp	Ditto	Ditto	Bailable	Ditto	Imprisonment for 10 years and fine	High Court
256	Having possession of an instrument or material for the purpose of counterfeiting a stamp	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Ditto
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
258	Sale of counterfeit Government stamp	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
259	Having possession of a counterfeit Government stamp	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
260	Using as genuine a Government stamp, known to be counterfeit	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years, or fine, or both	Ditto

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
261	Effecting any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
262	Using a Government stamp known to have been used before	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
263	Erasure of mark denoting that stamp has been used	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
263A	Making, using, etc., fictitious stamp	Ditto	Ditto	Ditto	Ditto	Fine of \$800 and confiscation of material	Court of a Magistrate
263B	Selling articles bearing designs resembling currency	Ditto	Ditto	Ditto	Ditto	Imprisonment for 6 months	Court of a Magistrate

CHAPTER XIII—OFFENCES RELATING TO WEIGHTS AND MEASURES

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for one year and fine	Court of a Magistrate
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265	Fraudulent use of false weight or measure	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
266	Being in possession of false weights or measures for fraudulent use	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
267	Making or selling false weights or measures for fraudulent use	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate

CHAPTER XIV—OFFENCES EFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life	May arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for 6 months and fine	Court of a Magistrate
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
271	Knowingly disobeying any quarantine rule	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for 6 months and fine	Court of a Magistrate
272	Adulterating food or drink intended for sale, so as to make the same noxious	Ditto	Ditto	Ditto	Ditto	Imprisonment for 6 months and fine of \$4,000	Court of a Magistrate
273	Selling any food or drink as food and drink, knowing the same to be noxious	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY & MORALS—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficiency, or to change its operation, or to make it noxious	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
276A	Not being a medical practitioner, using forceps in the delivery of a child	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine of \$8,000	Court of a Magistrate

277	Defiling the water of a public spring or reservoir	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 months and fine of \$2,000	Court of a Magistrate
278	Making atmosphere noxious to health	Shall not arrest without warrant	Ditto	Ditto	Ditto	Fine of \$1,000	Court of a Magistrate
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 12 months and fine of \$4,000	Court of a Magistrate
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
281	Exhibition of a false light, mark or buoy	Ditto	Warrant	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life	Ditto	Summons	Ditto	Ditto	Imprisonment for 12 months and fine of \$4,000	Court of a Magistrate
283	Causing danger, obstruction or injury in any public way or line of navigation	May arrest without warrant	Summons	Bailable	Not compoundable	Fine of \$800	Court of a Magistrate
284	Dealing with any poisonous substance so as to endanger human life, etc.	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 12 months and fine of \$4,000	Court of a Magistrate

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY & MORALS—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Court of Magistrate a
286	So dealing with any explosive substance	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Magistrate a
287	So dealing with any machinery	Shall not arrest without warrant	Ditto	Ditto	Ditto	Ditto	Court of Magistrate a
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it	Ditto	Ditto	Ditto	Ditto	Imprisonment for 6 months, or fine of \$4,000	Court of Magistrate a
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Court of Magistrate a

290	Committing a public nuisance	Shall not arrest without warrant	Ditto	Ditto	Ditto	Fine of \$800	Court of Magistrate	a
291	Continuance of nuisance after injunction to discontinue	May arrest without warrant	Ditto	Ditto	Ditto	Simple imprisonment for 6 months and fine	Court of Magistrate	a
292	Sale, etc., of obscene books	Ditto	Warrant	Ditto	Ditto	Imprisonment for 12 months and fine	Court of Magistrate	a
293	Having in possession obscene books, etc., for sale or exhibition	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of Magistrate	a
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Imprisonment for 12 months and fine	Court of Magistrate	a

CHAPTER XV—OFFENCES RELATING TO RELIGION

295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class or persons	May arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for 2 years and fine	Court of Magistrate	a
296	Causing a disturbance to an assembly engaged in religious worship	Ditto	Ditto	Ditto	Ditto	Imprisonment for one year and fine	Court of Magistrate	a
297	Trespassing in place of worship or sepulchre, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Magistrate	a

CHAPTER XV—OFFENCES RELATING TO RELIGION—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
297A	Interference with grave or human remains	Ditto	Warrant	Not bailable	Not compoundable	Imprisonment for 7 years and fine	High Court
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight of any person, with intention to wound his religious feelings	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for one year and fine	Court of a Magistrate

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY  
OF OFFENCES AFFECTING LIFE

302	Murder	May arrest without warrant	Warrant	Not bailable	Not compoundable	Death	High Court
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with the intention of causing death, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for life	Ditto



304	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
304A (1)	Causing death by rash or negligent driving of motor vehicles or rash or negligent use of firearms or explosive Act No., 1/55. Schedule	Ditto	Ditto	Ditto	Ditto	Imprisonment for 5 years and fine	Court of a Magistrate
304A (2)	Causing death by rash or negligent act	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 2 years and fine	Court of a Magistrate
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated	Ditto	Ditto	Ditto	Ditto	Death or imprisonment for life	High Court
306	Abetting the commission of suicide	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	High Court
307	Attempting to murder	Ditto	Ditto	Ditto	Ditto	Ditto	High Court
307	If such act cause hurt to any person	Ditto	Ditto	Ditto	Ditto	Imprisonment for life	High Court
307	Attempt to murder by convict undergoing sentence of 15 years' imprisonment, if hurt is caused	Ditto	Ditto	Ditto	Ditto	Death, or as above	High Court

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compound- able or not	7 Maximum punishment under the Penal Code	8 By what Court triable
308	Attempt to commit culpable homicide. (Where hurt not caused to any person)	Ditto	Ditto	Bailable	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
308	If such act cause hurt to any person	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one year, or fine or both	Court of a Magistrate

## OF THE CAUSING OF MISCARRIAGE; OF INJURIES TO UNBORN CHILDREN; OF THE EXPOSURE OF INFANTS; AND OF THE CONCEALMENT OF BIRTHS

312	Causing miscarriage. (Where woman not quick with child)	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 3 years and fine	Court of a Magistrate
312	If woman be quick with child	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
313	Causing miscarriage without woman's consent	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 10 years and fine	High Court
314	Death caused by an act done with intent to cause miscarriage	Ditto	Ditto	Ditto	Ditto	Ditto	High Court
314	If act done without woman's consent	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years and fine	High Court

315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	High Court
316	Causing death of a quick unborn child by an act amounting to culpable homicide	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	High Court
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it	May arrest without warrant. Act, No. 2/57	Warrant	Bailable	Not compoundable	Imprisonment for 7 years and fine	High Court
318	Concealment of birth by secret disposal of dead	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate

OF HURT

323	Voluntarily causing hurt	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for one year and fine of \$4,000	Court of a Magistrate
324	Voluntarily causing hurt by dangerous weapons or means	May arrest without warrant	Ditto	Ditto	Not compoundable	Imprisonment for 3 years and fine	Court of a Magistrate
325	Voluntarily causing grievous hurt	Ditto	Ditto	Ditto	Compoundable when permission is given	Imprisonment for 7 years and fine	High Court
326	Voluntarily causing grievous hurt by dangerous weapons or means	Ditto	Ditto	Not bailable	Not compoundable	Imprisonment for 15 years and fine	Ditto

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence	Ditto	Warrant	Ditto	Ditto	Imprisonment for 10 years, fine and whipping	Ditto
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years, fine and whipping	Ditto
330	Voluntarily causing hurt to extort confession or information or to compel restoration of property, etc.	Ditto	Ditto	Bailable	Ditto	Imprisonment for 7 years and fine	Ditto

331	Voluntarily causing grievous hurt to extort confession or information or to compel restoration of property, etc.	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 10 years and fine	High Court
332	Voluntarily causing hurt to deter public servant from his duty	Ditto	Ditto	Bailable	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
333	Voluntarily causing grievous hurt to deter public servant from his duty	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 10 years and fine	High Court
334	Voluntarily causing hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for one month and fine of \$2,000	Court of a Magistrate
335	Causing grievous hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation	May arrest without warrant	Ditto	Ditto	Compoundable when permission is given	Imprisonment for 4 years and fine of \$8,000	Court of a Magistrate
336	Doing any act which endangers human life or the personal safety of others	Ditto	Ditto	Ditto	Not compoundable	Imprisonment for 3 months and fine of \$800	Court of a Magistrate
337	Causing hurt by an act which endangers human life, etc.	Ditto	Ditto	Ditto	Compoundable when permission is given	Imprisonment for 6 months and fine of \$2,000	Court of a Magistrate

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
338	Causing grievous hurt by an act which endangers human life, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine of \$4,000	Court of a Magistrate

OF WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT

341	Wrongfully restraining any person	May arrest without warrant	Summons	Bailable	Compoundable	Simple imprisonment for one month and fine of \$2,000	Court of a Magistrate
342	Wrongfully confining for 3 son	Ditto	Ditto	Ditto	Ditto	Imprisonment for one year and fine of \$4,000	Court of a Magistrate
343	Wrongfully confining for 3 or more days	Ditto	Ditto	Ditto	Not compoundable	Imprisonment for 2 years and fine	Court of a Magistrate
344	Wrongfully confining for 10 or more days	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for 2 years, in addition to imprisonment under any other section	Court of a Magistrate
346	Wrongful confinement in secret	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate

347	Wrongful confinement for the purpose of extorting property or constraining to an illegal act, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
352	Assault or use of criminal force otherwise than on grave provocation	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for 3 months and fine of \$2,000	Court of a Magistrate
353	Assault or use of criminal force to deter a public servant from discharge of his duty	May arrest without warrant	Warrant	Ditto	Not compoundable	Imprisonment for 2 years and fine	Court of a Magistrate
354	Assault or use of criminal force to a person with intent to outrage the modesty of that person	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation	Shall not arrest without warrant	Summons	Ditto	Compoundable	Ditto	Court of a Magistrate

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 2 years and fine	Court of a Magistrate
357	Assault or use of criminal force in attempt wrongfully to confine a person	Ditto	Ditto	Bailable	Ditto	Imprisonment for one year and fine of \$4,000	Court of a Magistrate
358	Assault or use of criminal force on grave and sudden provocation	Shall not arrest without warrant	Summons	Bailable	Compoundable	Simple imprisonment for one month and fine of \$800	Court of a Magistrate

OF KIDNAPPING, ABDUCTION, SLAVERY AND FORCED LABOUR

363	Kidnapping	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 7 years and fine	High Court
364	Kidnapping or abducting in order to murder	Ditto	Ditto	Ditto	Ditto	Death or imprisonment for life	Ditto
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto



366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
366A	Procuration of minor girl	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
366B	Importation of girl from foreign country	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
368	Concealing or keeping in confinement a kidnapped person	Ditto	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction	Ditto
369	Kidnapping or abducting a child with intent to take property from the person of such child	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
370	Buying or disposing of any person as a slave	Shall not arrest without warrant	Ditto	Bailable	Ditto	Ditto	Ditto
371	Habitual dealing in slaves	May arrest without warrant	Ditto	Not bailable	Ditto	Imprisonment for 10 years and fine	Ditto
372	Selling or letting to hire a minor for purposes of prostitution, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
373	Buying or obtaining possession of a minor for the same purposes	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
373A	Importing women by fraud with intent, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
374	Unlawful compulsory labour	Ditto	Ditto	Bailable	Compoundable	Imprisonment for one year and fine	Ditto
376	Rape	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 30 years, fine and whipping	High Court
377	Unnatural offences	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
377A	Incest	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years, or fine, or both	Court of a Magistrate

CHAPTER XVII—OFFENCES AGAINST PROPERTY  
OF THEFT

379	Theft	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 3 years and fine	Any magistrate
380	Theft in a building, tent or vessel	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Ditto

381	Theft by clerk or servant of property in possession of master or employer	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Magistrate a
382	Theft, preparation having been made for causing death or hurt, or restraint, or fear of death or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	High Court
384	Extortion	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of Magistrate a
385	Putting or attempting to put in fear of injury, in order to commit extortion	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Court of Magistrate a
386	Extortion by putting a person in fear of death or grievous hurt	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	High Court
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
388	Extortion by threat of accusation of an offence punishable with death, or imprisonment for 10 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
388	If the offence threatened be an unnatural offence	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 15 years and fine	High Court
389	Putting a person in fear of accusation of offence punishable with death, or with imprisonment for 10 years, in order to commit extortion	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years and fine	Ditto
389	If the offence be an unnatural offence	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years and fine	Ditto

OF ROBBERY AND GANG ROBBERY

392	Robbery	May arrest without warrant	Warrant	Not bailable	Not compoundable	Rigorous imprisonment for 10 years, fine and whipping	High Court
392	If committed between sunset and sunrise	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 15 years, fine and whipping	Ditto
393	Attempt to commit robbery	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, fine and whipping	Ditto

394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 15 years, fine and whipping	Ditto
395	Gang robbery	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
396	Gang robbery with murder	Ditto	Ditto	Ditto	Ditto	Death	Ditto
397	Robbery or gang robbery or attempted robbery or gang robbery with attempt to cause death or grievous hurt	Ditto	Ditto	Ditto	Ditto	Imprisonment for not less than 7 years	Ditto
398	Robbery or gang robbery or attempted robbery or gang robbery when armed with deadly weapon	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
399	Making preparation to commit gang robbery	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years and fine	Ditto
400	Belonging to a gang of persons associated for the purpose of habitually committing gang robbery	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 15 years and fine	Ditto

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing theft	May arrest without warrant	Warrant	Not bailable	Not compoundable	Rigorous imprisonment for 7 years and fine	High Court
402	Being one of 5 or more persons assembled for the purpose of committing gang robbery	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

OF CRIMINAL MISAPPROPRIATION OF PROPERTY

403	Dishonest misappropriation of movable property, or converting it to one's own use	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 2 years and fine	Court of a Magistrate
404	If by clerk or person employed by deceased	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court

404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death and that it has not since been in the possession of any person legally entitled to it	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
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## OF CRIMINAL BREACH OF TRUST

406	Criminal breach of trust	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 3 years, or fine, or both	Court of a Magistrate
407	Criminal breach of trust by a carrier, wharfinger, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
408	Criminal breach of trust by a clerk or servant	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
409	Criminal breach of trust by a public servant or by a banker, merchant or agent, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
410A	Suspected stolen property	Ditto	Ditto	Bailable	Ditto	Imprisonment for 3 months and fine of \$1,600, or if previous conviction under Chapter XVII, imprisonment for one year and fine	Court of a Magistrate

## OF THE RECEIVING OF STOLEN PROPERTY

411	Dishonestly receiving stolen property, knowing it to be stolen	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 3 years, or fine, or both	Court of a Magistrate
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CHAPTER XVII—OFFENCES AGAINST PROPERTY—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
412	Dishonestly receiving stolen property knowing that it was obtained by gang robbery	May arrest without warrant	Warrant	Not bailable	Not compoundable	Rigorous imprisonment for 15 years and fine	High Court
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate

CHAPTER XVII—OF CHEATING

417	Cheating	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for one year and fine	Court of a Magistrate
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
419	Cheating by personation	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate



420	Cheating and thereby dishonestly inducing delivery of property or the making, alteration of a valuable security	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Court of Magistrate a
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CHAPTER XVII—OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY

421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 2 years and fine	Court of Magistrate a
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Magistrate a
423	Fraudulent execution of deed of transfer containing a false statement of consideration	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Magistrate a
424	Fraudulent removal or concealment of property of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 2 years and fine	Court of Magistrate a

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable

CHAPTER XVII—OF MISCHIEF

426	Mischief	Shall not arrest without warrant	Summons	Bailable	Compoundable when the only loss or damage caused is loss or damage to a private person	Imprisonment for 3 months and fine	Court of a Magistrate
427	Mischief, and thereby causing damage to the amount of \$25 or upwards	Ditto	Warrant	Ditto	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
428	Mischief by killing, poisoning, maiming, or rendering useless any animal of the value of \$5 or upwards	May arrest without warrant	Ditto	Ditto	Not compoundable	Ditto	Court of a Magistrate
429	Mischief by killing, poisoning, maiming, or rendering useless any animal of above the value of \$25	Ditto	Ditto	Ditto	Ditto	Imprisonment for 5 years and fine	Court of a Magistrate

430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
431	Mischief by injury to public road, bridge, navigable river or channel and rendering it impassable or less safe for travelling or conveying property	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
432	Mischief by causing inundation or obstruction to public drainage, attended with damage	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
433	Mischief by destroying or moving or rendering less useful a lighthouse or seamark, or by exhibiting false lights	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 7 years and fine	High Court
434	Mischief by destroying or moving, etc., a landmark fixed by public authority	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for one year and fine	Court of a Magistrate
435	Mischief by fire or explosive substance with intent to cause damage to amount of \$50 or upwards	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Ditto	Ditto	Not bailable	Ditto	Imprisonment for life	Ditto
437	Mischief with intent to destroy or make unsafe a decked vessel or vessel of 20 tons burden	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
438	The mischief described in the last section when committed by fire or explosive substance	Ditto	Ditto	Ditto	Ditto	Imprisonment for life	Ditto
439	Running vessel ashore with intent to commit theft, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 5 years and fine	Court of a Magistrate

## OF CRIMINAL TRESPASS

447	Criminal trespass	May arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for 3 months, and fine of \$2,000	Court of Magistrate a
448	House-trespass	Ditto	Warrant	Ditto	Ditto	Imprisonment for one year, and fine of \$4,000	Court of Magistrate a
449	House-trespass in order to the commission of an offence punishable with death	Ditto	Ditto	Not bailable	Not compoundable	Imprisonment for life	High Court
450	House-trespass in order to the commission of an offence punishable with imprisonment for 15 years	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
451	House-trespass in order to the commission of an offence punishable with imprisonment	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 2 years and fine	Court of Magistrate a
451	If the offence is theft	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 7 years and fine	High Court
452	House-trespass, having made preparation for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
453	Lurking house-trespass, or house-breaking	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years and fine	Court of Magistrate a

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
454	Lurking house-trespass, or house-breaking in order to the commission of an offence punishable with imprisonment	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
454	If the offence is theft	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	High Court
455	Lurking house-trespass or house-breaking after preparation made for causing hurt assault, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
456	Lurking house-trespass or house-breaking by night	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment	Ditto	Ditto	Ditto	Ditto	Imprisonment for 5 years and fine	Court of a Magistrate
457	If the offence is theft	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years and fine	High Court

458	Lurking house-trespass or house-breaking by night, after preparation for causing hurt, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years and fine	Ditto
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years and fine	Ditto
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for life	High Court
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	Ditto	Ditto	Bailable	Ditto	Imprisonment for 2 years and fine	Court of a Magistrate
462	Being entrusted with any closed receptacle containing or supposed to contain any property and fraudulently opening the same	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate

CHAPTER XVIII—OFFENCES RELATING TO DOCUMENTS AND TO CURRENCY NOTES AND BANK NOTES

465	Forgery	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for 2 years and fine	Court of a Magistrate
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CHAPTER XVIII—OFFENCES RELATING TO DOCUMENTS AND TO CURRENCY NOTES AND BANK NOTES—  
*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 7 years and fine	High Court
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto
468	Forgery for the purpose of cheating	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Ditto
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose	Ditto	Ditto	Ditto	Ditto	Imprisonment for 3 years and fine	Court of a Magistrate
471	Using as genuine a forged document which is known to be forged	Ditto	Ditto	Ditto	Ditto	Punishment for forgery	Court of a Magistrate



472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under the above-mentioned section 467, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 7 years and fine	High Court
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under the above-mentioned section 467, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit	May arrest without warrant. Act No. 2/57	Ditto	Ditto	Ditto	Ditto	Ditto
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned above in section 466	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
474	If the document is one of the description mentioned above in section 467	Ditto	Ditto	Ditto	Ditto	Imprisonment for 15 years and fine	Ditto

CHAPTER XVIII—OFFENCES RELATING TO DOCUMENTS AND TO CURRENCY NOTES AND BANK NOTES—  
*continued*

1 Penal Code Section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code	8 By what Court triable
475	Counterfeiting a device or mark used for authenticating documents described in the above section 467 or possessing counterfeit marked material	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Ditto
476	Counterfeiting a device or mark used for authenticating documents other than those described in the above section 467 or possessing counterfeit marked material	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting a will, etc.	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 7 years and fine	High Court
477A	Falsification of accounts	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Ditto

489A	Counterfeiting currency notes or bank notes	May arrest without warrant	Summons	Bailable	Ditto	Imprisonment for 15 years and fine	Ditto
489B	Using as genuine forged or counterfeit currency notes or bank notes	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
489C	Possession of forged or counterfeit currency notes or bank notes	Ditto	Warrant	Not bailable	Ditto	Imprisonment for 7 years and fine	Ditto
489D	Making or possessing instruments or materials for forging for counterfeiting currency notes or bank notes	Ditto	Ditto	Ditto	Ditto	Imprisonment for 10 years and fine	Ditto

CHAPTER XX—OFFENCES RELATING TO MARRIAGE

493	Cohabitation caused by a man deceitfully inducing a belief of lawful marriage	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 10 years and fine	High Court
494	Marrying again during the lifetime of a husband or wife	Ditto	Ditto	Bailable	Ditto	Imprisonment for 7 years and fine	Ditto
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted	Ditto	Ditto	Not bailable	Ditto	Imprisonment for 10 years and fine	Ditto
496	Marriage ceremony fraudulently gone through without lawful marriage	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	Ditto

CHAPTER XX—OFFENCES RELATING TO MARRIAGE—*continued*

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
498	Enticing or taking away or detaining with a criminal intent a married woman	Ditto	Ditto	Bailable	Compoundable	Imprisonment for 2 years and fine	Court of a Magistrate

CHAPTER XXI—DEFAMATION

500	Defamation	Shall not arrest without warrant	Warrant	Bailable	Compoundable	Simple imprisonment for 2 years and fine	Court of a Magistrate
501	Printing or engraving matter knowing it to be defamatory	Ditto	Ditto	Ditto	Ditto	Ditto	Court of a Magistrate
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	Shall not arrest without warrant	Warrant	Bailable	Compoundable	Simple imprisonment for 2 years and fine	Court of a Magistrate

CHAPTER XXII—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

504	Insult intended to provoke a breach of the peace	Shall not arrest without warrant	Warrant	Bailable	Compoundable	Imprisonment for 2 years and fine	Court of a Magistrate
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505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace	Ditto	Ditto	Not bailable	Not compoundable	Ditto	Court of a Magistrate
506	Criminal intimidation	May arrest without warrant	Ditto	Bailable	Ditto	Ditto	Court of a Magistrate
506	If threat be to cause death or grievous hurt	Ditto	Ditto	Ditto	Ditto	Imprisonment for 7 years and fine	High Court
507	Criminal intimidation by annonymous communication or having taken precaution to conceal whence the threat comes	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 years, in addition to the punishment under section 506	Court of a Magistrate
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure	Ditto	Ditto	Ditto	Ditto	Imprisonment for one year and fine	Court of a Magistrate
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Shall not arrest without warrant	Ditto	Bailable	Ditto	Imprisonment for one year and fine	Court of a Magistrate
510	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person	May arrest without warrant	Ditto	Ditto	Ditto	Simple imprisonment for 10 days and fine of \$800	Court of a Magistrate

ATTEMPT TO COMMIT OFFENCES

1	2	3	4	5	6	7	8
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Maximum punishment under the Penal Code	By what Court triable
511	Attempting to commit offences punishable with imprisonment and in such attempt doing any act towards the commission of the offence	According as the offence is one in respect of which the Police may arrest without warrant or not	According as the offence is one in respect of which a summons or warrant shall ordinarily issue	According as the offence contemplated by the offender is bailable or not	Compoundable when offence attempted is compoundable	Imprisonment not exceeding half the term provided for the offence and fine	The Court by which the offence itself is triable

OFFENCES AGAINST OTHER LAWS

511	If punishable with death or imprisonment for 3 years or upwards	May arrest without warrant	Warrant	Not bailable	Not compoundable	} See section 9	
	If punishable with imprisonment for less than 3 years, or with fine only	Shall not arrest without warrant	Summons	Bailable	Ditto		

## SECOND SCHEDULE

(Section 398)

## FORMS

## I—Summons to an Accused Person

(See section 39)

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

Whereas your attendance is necessary to answer to a charge of \_\_\_\_\_  
 you are hereby required to appear on the \_\_\_\_\_ day of \_\_\_\_\_  
 at \_\_\_\_\_ before the \_\_\_\_\_ Court at \_\_\_\_\_

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

(Seal)

(Signature and Title of Office)

## II—Warrant of Arrest

(See section 43)

*To the Commissioner of Police and all other police officers*

Whereas \_\_\_\_\_ of \_\_\_\_\_ stands charged with the offence of \_\_\_\_\_  
 you are directed to arrest the said \_\_\_\_\_ and to produce  
 him at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before the  
 \_\_\_\_\_ Court at \_\_\_\_\_

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

(Seal)

(Signature and Title of Office)

(See section 44)

*This Warrant may be indorsed as follows —*

If the said \_\_\_\_\_ shall give bail himself in the sum of \_\_\_\_\_  
 dollars, with one surety in the sum of \_\_\_\_\_ dollars, [or two sureties  
 each in the sum of \_\_\_\_\_ dollars] to attend before the Court on the \_\_\_\_\_  
 day of \_\_\_\_\_ and to continue so to attend until directed by  
 me, he may be released.

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

(Signature and Title of Office)

**III—Bond and Bail-bond after Arrest under a Warrant***(See section 54)*

I \_\_\_\_\_, of \_\_\_\_\_ being brought before the \_\_\_\_\_ Court at \_\_\_\_\_ under a warrant issued to compel my appearance to answer to a charge of \_\_\_\_\_ do hereby bind myself to attend in the Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of \_\_\_\_\_ dollars [Which I hereby deposit].

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

*(Signature)*

I [*or We*] do hereby declare myself [*or ourselves*] surety [*or sureties*] for the abovenamed \_\_\_\_\_ of \_\_\_\_\_, that he shall attend before the \_\_\_\_\_ Court at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I [*or we*] hereby bind myself [*or ourselves, jointly and severally*] to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of \_\_\_\_\_ dollars [which I (*or we*) hereby deposit].

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

*(Signature)***IV—Proclamation Requiring the Appearance of a Person Accused***(See section 49)*

Whereas complaint has been made before me that \_\_\_\_\_ of \_\_\_\_\_ has committed [*or is suspected to have committed*] the offence of \_\_\_\_\_ punishable under section \_\_\_\_\_ of the Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said \_\_\_\_\_ cannot be found; and whereas it has been shown to my satisfaction that the said \_\_\_\_\_ has absconded [*or is concealing himself to avoid the service of the said warrant, as the case may be*]:

Proclamation is hereby made that the said \_\_\_\_\_ of \_\_\_\_\_ is required to appear before the \_\_\_\_\_ Court at \_\_\_\_\_ to answer the said complaint within \_\_\_\_\_ days from this date.

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

*(Signature and Title of Office)**(Seal)*



**V—Proclamation Requiring the Attendance of a Witness***(See section 49)*

Whereas complaint has been made before me that \_\_\_\_\_ of \_\_\_\_\_ has committed [or is suspected to have committed] the offence of \_\_\_\_\_ and a warrant has been issued to compel the attendance of \_\_\_\_\_ of \_\_\_\_\_ before the \_\_\_\_\_ Court at \_\_\_\_\_ to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said \_\_\_\_\_ cannot be served, and it has been shown to my satisfaction that he has absconded [or is concealing himself to avoid the service of the said warrant]:

Proclamation is hereby made that the said \_\_\_\_\_ is required to appear before the \_\_\_\_\_ Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next at o'clock, to be examined touching the offence complained of.

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

*(Signature and Title of Office)*

*(Seal)*

**VI—Order of Attachment to Compel the Attendance of a Witness***(See section 50)*

*To the Police Officer in charge of the Police District of \_\_\_\_\_*

Whereas a warrant has been duly issued to compel the attendance of \_\_\_\_\_ of \_\_\_\_\_ to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to the satisfaction of the Court that he has absconded [or is concealing himself to avoid the service of the said warrant]; and thereupon a Proclamation was duly issued and published requiring the said \_\_\_\_\_ to appear and give evidence at the time and place mentioned therein, and he had failed to appear.

This is to authorise and require you to attach by seizure the movable property belonging to the said \_\_\_\_\_ to the value of \_\_\_\_\_ dollars which you may find within Brunei and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an indorsement certifying the manner of its execution.

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

*(Signature and Title of Office)*

*(Seal)*

**VII—Warrant in the First Instance to bring up a Witness***(See section 52)*

To [name and description of the Police Officer or other person or persons who is or are to execute the warrant].

Whereas complaint has been made before me that of  
has [or is suspected to have] committed the offence of  
and it appears likely that of can give evi-  
dence concerning the said complaint; and whereas the Court has good  
and sufficient reason to believe that he will not attend as a witness on the  
hearing of the said complaint unless compelled to do so:

This is to authorise and require you to arrest the said of  
and on the day of to bring him before the  
Court at to be examined touching the offence com-  
plained of.

Given under my hand and the seal of the Court, this day  
of , 19

*(Signature and Title of Office)**(Seal)***VIII—Warrant to Search after Information of a Particular Offence***(See section 59)*

To [name and description of the Police Officer or other person or persons who is or are to execute the warrant].

Whereas information has been laid [or complaint has been made]  
before me of the commission [or suspected commission] of the offence  
of and it has been made to appear to me that the production of  
the articles specified in the schedule below is essential to the inquiry now  
being made [or about to be made] into the said offence [or suspected  
offence]:

This is to authorise and require you within the space of  
days from the date hereof to search for the said articles specified in the  
schedule below in the [describe the house or place, or part  
thereof, to which the search is to be confined], and, if found, to produce  
the same forthwith before the Court; returning this warrant,  
with an indorsement certifying what you have done under it, immedi-  
ately upon its execution.

Given under my hand and the seal of the Court, this day  
of , 19

*(Signature and Title of Office)**(Seal)*

**IX—Warrant to Search Suspected Place of Deposit**

(See section 61)

To                      [*name and description of the Police Officer or other person or persons who is or are to execute the warrant*].

Whereas information has been laid before me, and on due inquiry thereupon I have been led to believe that the [*describe the house or other place*] is used as a place for the deposit [*or sale*] of stolen property [*or if for either of the other purposes expressed in the section, state the purpose in the words of the section*]:

This is to authorise and require you within the space of \_\_\_\_\_ days from the date hereof to enter the said house [*or other place*] with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house [*or other place, or if the search is to be confined to a part, specify the part clearly*] and to seize and take possession of any property [*or document, or stamps, or seals, or coins, or trade marks, as the case may be*]—[*Add (when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or trade marks, or counterfeit stamps, or false seals, or counterfeit coin, as the case may be*] and forthwith to bring before this Court such of the said things as may be taken possession of; returning this warrant, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day  
of \_\_\_\_\_, 19 \_\_\_\_\_

(Signature and Title of Office)

(Seal)

**X—Bond to Keep the Peace**

(See section 72)

Whereas I \_\_\_\_\_ inhabitant of \_\_\_\_\_ have been called upon to enter into a bond to keep the peace for the term of \_\_\_\_\_ I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of \_\_\_\_\_ dollars [which I hereby deposit].

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

(Signature)

**XI—Bond for Good Behaviour***(See sections 73 and 74)*

Whereas I                    inhabitant of                    have been called upon to enter into bond to be of good behaviour to His Majesty the Sultan and Yang Di-Pertuan and to all his subjects for the term of                    I hereby bind myself to be of good behaviour to His Majesty the Sultan and Yang Di-Pertuan and to all his subjects during the aid term; and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of                    dollars [which I hereby deposit].

*(Signature)*

*Where a Bond with Sureties is to be executed, add:—* We do hereby declare ourselves sureties for the above-named                    that he will be of good behaviour to His Majesty the Sultan and Yang Di-Pertuan and to all his subjects during the said term; and, in case of his making default therein, we hereby bind ourselves, jointly and severally, to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of                    dollars [which we hereby deposit].

Dated this                    day of                    , 19                   

*(Signature)***XII—Order to Show Cause***(See section 75)*

Whereas information has been received by me that [*here set out the substance of the information received*].

It is hereby ordered that                    do attend at the                    Court at                    on the                    day of                    , 19                    , at                    o'clock to show cause why he should not be ordered to execute a bond for his good behaviour in the sum of                    dollars to be in force for the term of                    months with                    sufficient sureties being [*here state character and class of sureties required*].

Given under my hand and the seal of the Court, this                    day of                    , 19                   

*(Signature and Title of Office)***XIII—Summons on Information of a Probable Breach of the Peace***(See section 75)*

To                    of

Whereas it has been made to appear to me by credible information that [*state the substance of the information*], and that you are likely to

commit a breach of the peace [or by which act a breach of the peace will probably be occasioned], you are hereby required to attend at the Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the forenoon, to show cause why you should not be required to enter into a bond for \_\_\_\_\_ dollars [when sureties are required, add:— and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of \_\_\_\_\_ dollars (each, if more than one), that you will keep the peace for the term of \_\_\_\_\_].

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Signature and Title of Office)

(Seal)

#### XIV—Warrant of Commitment on Failure to Find Security to Keep the Peace

(See section 83)

To the Officer in charge of the Prison at \_\_\_\_\_

Whereas \_\_\_\_\_ of \_\_\_\_\_ appeared before me on the \_\_\_\_\_ day of \_\_\_\_\_ in obedience to a summons calling upon him to show cause why he should not enter into a bond for \_\_\_\_\_ dollars with one surety [or a bond with 2 sureties each in \_\_\_\_\_ dollars], that he the said \_\_\_\_\_ would keep the peace for the period of \_\_\_\_\_. And whereas an order was then made requiring the said \_\_\_\_\_ to enter into and find such security [state the security ordered when it differs from that mentioned in the summons], and he has failed to comply with the said order:

This is to authorise and require you to receive the said \_\_\_\_\_ into your custody, together with this warrant, and to keep him safely in prison for the said period of \_\_\_\_\_ unless he shall, in the meantime, comply with the said order by himself and his surety [or sureties] entering into the said bond, in which case the same shall be received, and the said \_\_\_\_\_ released; and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Signature and Title of Office)

(Seal)

**XV—Warrant of Commitment on Failure to Find Security for Good Behaviour**

(See section 83)

*To the Officer in charge of the Prison at*

Whereas it has been made to appear to me that \_\_\_\_\_ of \_\_\_\_\_ has been and is lurking within the District of \_\_\_\_\_ having no ostensible means of subsistence [*or* and that he is unable to give any satisfactory account of himself]:

Whereas evidence of the general character of \_\_\_\_\_ of \_\_\_\_\_ has been adduced before me and recorded, from which it appears that he is an habitual robber [*or* house-breaker, etc., *as the case may be.*]

And whereas an order has been recorded stating the same and requiring the said \_\_\_\_\_ to furnish security for his behaviour for the term of \_\_\_\_\_ by entering into a bond with one surety [*or* 2 or more sureties, *as the case may be*], himself for \_\_\_\_\_ dollars, and the said surety [*or* each of the said sureties] for \_\_\_\_\_ dollars, and the said \_\_\_\_\_ has failed to comply with the said order, and for such default has been adjudged imprisonment for \_\_\_\_\_ unless the said security be sooner furnished:

This is to authorise and require you to receive the said \_\_\_\_\_ into your custody, together with this warrant, and to keep him safely in prison for the said period of \_\_\_\_\_ unless he shall, in the meantime, comply with the said order by himself and his surety [*or* sureties] entering into the said bond, in which case the same shall be received, and the said \_\_\_\_\_ released; and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Signature and Title of Office)

(Seal)

**XIV—Warrant to Discharge a Person Imprisoned on Failure to Give Security**

(See section 79)

*To the Officer in charge of the Prison at \_\_\_\_\_ (or other officer in whose custody the person is)*

Whereas \_\_\_\_\_ of \_\_\_\_\_ was committed to your custody under warrant of this Court dated the \_\_\_\_\_ day of \_\_\_\_\_, and has since duly given security under section \_\_\_\_\_ of the Criminal Procedure Code,

*or*

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community:

This is to authorise and require you forthwith to discharge the said ~~from your custody, unless he is liable to be detained for some other cause.~~

Given under my hand and the seal of the Court, this                    day  
of                   , 19

(Signature and Title of Office)

(Seal)

### XVII—Order for the Removal of Nuisance

(See section 93)

To                    of

Whereas it has been made to appear to me that you have caused an obstruction [*or nuisance*] to persons using the public roadway [*or other public place*] which, etc., (*describe the road or public place*), by etc., (*state what it is that causes the obstruction or nuisance*) and that such obstruction [*or nuisance*] still exists:

*or*

Whereas it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of                    at                    and that the same is injurious to the public health [*or comfort*] by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place:

*or*

Whereas it has been made to appear to me that you are the owner [*or are in possession of, or have the control over*] a certain tank [*or well, or excavation*] being without a fence [*or insecurely fenced*]:

*or*

Whereas, etc., etc., (*as the case may be*):

I do hereby direct and require you within                    to [*state what is to be done*] or to appear at                    in the                    Court of                    on the                    day of                    next, and to show cause why this order should not be enforced:

*or*

I do hereby direct and require you within                    to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.:

*or*

I do hereby direct and require you within \_\_\_\_\_ to put up a sufficient fence [*state the kind of fence and the part to be fenced*] or to appear, etc.

or

I do hereby direct and require you, etc., [*as the case may be*].

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(*Signature and Title of Office*)

(*Seal*)

**XVIII—Notice and Peremptory Order by Magistrate after Order Absolute**

(*See section 96*)

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

Notice is hereby given that an order absolute has been made against you requiring you \_\_\_\_\_ and you are hereby directed and required to obey the said order within \_\_\_\_\_ on peril of the penalty provided by section 188 of the Penal Code for disobedience thereto.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(*Signature and Title of Office*)

(*Seal*)

**XIX—Injunction to Provide against Imminent Danger Pending Decision**

(*See section 100*)

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

Whereas a conditional order was made by this Court on the \_\_\_\_\_ day of \_\_\_\_\_, requiring you \_\_\_\_\_ and it has been made to appear to this Court that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger: You are hereby under the provisions of section 100 of the Criminal Procedure Code, directed and enjoined forthwith to (*state plainly what is required to be done as a temporary safeguard*) pending the final decision of the case.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(*Signature and Title of Office*)

(*Seal*)



**XX—Order of Magistrate prohibiting the Repetition, etc. of a Nuisance***(See section 101)*

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

Whereas it has been made to appear to this Court that, etc., [*state the proper recital, guided by Form No. XVII or Form No. XXI, as the case may be*]:

You are hereby ordered and enjoined not to repeat the said nuisance by again placing, or causing, or permitting to be placed, etc., [*as the case may be*].

*(Signature and Title of Office)**(Seal)***XXI—Order of Magistrate to prevent Obstruction, Riot, etc.***(See section 102)*

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

Whereas it has been made to appear to this Court that you are in possession [*or have the management*] of \_\_\_\_\_ and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road:

*or*

Whereas it has been made to appear to this Court that you and a number of other person [*mention the class of persons*] are about to meet and proceed in a religious procession along the public street, etc., [*as the case may be*] and that such

*or*

procession is likely to lead to a riot or an affray:

Whereas, etc., etc., [*as the case may be*]:

You are hereby ordered not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road.

*or*

The procession passing along the said street is hereby prohibited, and you are warned and enjoined not to take any part in such procession [*or, as the case recited may require*].

Given under my hand and the seal of the Court, this \_\_\_\_\_ day  
of \_\_\_\_\_, 19 \_\_\_\_\_

*(Signature and Title of Office)**(Seal)*

**XXII—Order of Magistrate declaring Party entitled to retain Possession of Land, etc., in Dispute***(See section 103)*

Whereas it appears to the undersigned Magistrate on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between [*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*] concerning certain situate at \_\_\_\_\_ the parties were called upon to give in to this Court a written statement of their respective claims as to the fact of actual possession of the said [*the subject of dispute*], and this Court being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said \_\_\_\_\_ is true:

It is hereby decided and declared that he is [*or they are*] in possession of the said \_\_\_\_\_ and entitled to retain such possession until ousted by due course of law, and any disturbance of his [*or their*] possession in the meantime is forbidden.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

*(Signature and Title of Office)**(Seal)***XXIII—Warrant of Attachment in the Case of a Dispute as to the Possession of Land, etc.***(See section 104)*

To the Police Officer in charge at \_\_\_\_\_ [*or, To the Collector of Land Revenue* \_\_\_\_\_].

Whereas it having been made to appear to the undersigned Magistrate that a dispute likely to induce a breach of the peace existed between \_\_\_\_\_ of \_\_\_\_\_ and \_\_\_\_\_ of \_\_\_\_\_ concerning certain situate at \_\_\_\_\_, the said parties were thereupon duly called upon to state to this Court in writing their respective claims as to the fact of actual possession of the said \_\_\_\_\_. And whereas, upon due inquiry into the said claims, this Court has decided that neither of the said parties was in possession of the said \_\_\_\_\_ [*or this Court unable to satisfy itself as to which of the said parties was in possession as aforesaid*]:

This is to authorise and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have

been obtained; and to return his warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this                    day  
of                   , 19

(Signature and Title of Office)

(Seal)

#### XXIV—Order of Magistrate Prohibiting the Doing of Anything on Land or Water

(See section 105)

A dispute having arisen concerning the right of use of situate at                    possession of which land [or water] is claimed exclusively by                    and it appearing to this Court, on due inquiry into the same, that the said land [or water] has been open to the enjoyment of such use by the public [or if by any individual or a class of persons, describe him or them], and [if the use can be enjoyed throughout the year—that the said use has been enjoyed within 3 months of the institution of the said inquiry, or if the use is enjoyable only at particular seasons, say during the last of the seasons at which the same is capable of being enjoyed]:

It is hereby ordered that the said                    or any one in their interest, shall not take [or retain] possession of the said land [or water] to the exclusion of the enjoyment of the right of use aforesaid, until he [or they] shall obtain the decree or order of a competent Court adjudging him [or them] to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this                    day  
of                   , 19

(Signature and Title of Office)

(Seal)

#### XXV—Bond to Prosecute or Give Evidence

(See section 121)

I                    of                    do hereby bind myself to attend at the Court at                   , at                    o'clock on the                    day of                    next, and then and there to give evidence in the matter of a charge of                    against one A.B.: and in case of my making default herein, I bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of                    dollars [which I hereby deposit].

Dated this                    day of                   , 19

(Signature)

**XXVI—Remand Warrant**

(See sections 149 and 223)

In the Magistrate's Court at \_\_\_\_\_ Case No. \_\_\_\_\_ to the  
of Prisons: \_\_\_\_\_ /O.C.P.D.

Whereas \_\_\_\_\_ was this day brought before this Court suspected  
of/accused of/charged with having committed an offence under section  
of \_\_\_\_\_ and it is necessary to remand the accused:

This is to authorise you and require you to receive the accused into  
your custody together with this Warrant and him safely to keep until the  
day of \_\_\_\_\_, 19 \_\_\_\_\_ when you shall cause him to be  
brought before this Court at \_\_\_\_\_ o'clock in the fore/afternoon,  
unless you shall be otherwise ordered in the meantime.

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

Magistrate

**XXVII—Charges**

(See sections 152, 153, 154)

**(I)—Charges with One Head**

On Penal  
Code  
section 121

1. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_,  
waged war against His Majesty the Sultan and Yang Di-Pertuan and  
thereby committed an offence punishable under section 121 of the Penal  
Code.

On  
section 161

2. That you, being a public servant in the \_\_\_\_\_ Department  
directly accepted from [*state the name*], for another party [*state the  
name*] a gratification other than legal remuneration as a motive for  
forbearing to do an official act, and thereby committed an offence  
punishable under section 161 of the Penal Code.

On  
section 166

3. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_,  
did [*or omitted to do, as the case may be*] \_\_\_\_\_ such conduct being  
contrary to the provisions of the \_\_\_\_\_ Act, section \_\_\_\_\_ and  
known by you to be prejudicial to \_\_\_\_\_ and thereby committed an  
offence punishable under section 166 of the Penal Code.

On  
section 193

4. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_,  
in the course of the trial of \_\_\_\_\_ before \_\_\_\_\_, stated in evidence  
that \_\_\_\_\_ which statement you either knew or believed to be false,  
or did not believe to be true, and thereby committed an offence punish-  
able under section 193 of the Penal Code.

On  
section 304

5. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_,  
committed culpable homicide not amounting to murder, by causing the  
death of \_\_\_\_\_ and thereby committed an offence punishable under  
section 304 of the Penal Code.

6. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, On section 306 abetted the commission of suicide by *A.B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Penal Code.

7. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, On section 325 voluntarily caused grievous hurt to \_\_\_\_\_, and thereby committed an offence punishable under section 325 of the Penal Code.

8. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, On section 392 robbed \_\_\_\_\_ and thereby committed an offence punishable under section 392 of the Penal Code.

9. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, On section 395 committed gang-robbery, an offence punishable under section 395 of the Penal Code.

(II)—Charges with 2 or More Heads

1. *First*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, On section 241 knowing a coin to be counterfeit, delivered the same to another person, by name *A.B.*, as genuine, and thereby committed an offence punishable under section 241 of the Penal Code.

*Secondly*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, knowing a coin to be counterfeit attempted to induce another person, by name *A.B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Penal Code.

2. *First*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, On sections 302 and 304 committed murder by causing the death of \_\_\_\_\_, and thereby committed an offence punishable under section 202 of the Penal Code.

*Secondly*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed culpable homicide not amounting to murder by causing the death of \_\_\_\_\_ and thereby committed an offence punishable under section 304 of the Penal Code.

3. *First*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, On sections 379 and 382 committed theft, and thereby committed an offence punishable under section 379 of the Penal Code.

*Secondly*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparations for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Penal Code.

*Thirdly*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Penal Code.

*Fourthly*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparation for causing fear or hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Penal Code.

Alternative charges on section 193

4. That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the course of the inquiry into \_\_\_\_\_ before \_\_\_\_\_ stated in evidence that \_\_\_\_\_ and that you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the course of the trial of \_\_\_\_\_, before \_\_\_\_\_, stated in evidence that \_\_\_\_\_ one of which statements you either knew or believed to be false, did not believe to be true, and thereby committed an offence punishable under section 193 of the Penal Code.

### (III)—Charges for Theft after a Previous Conviction

That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, and thereby committed an offence punishable under section 379 of the Penal Code.

And further that you, before the committing of the said offence, that is to say, on the \_\_\_\_\_ day of \_\_\_\_\_, had been convicted by the \_\_\_\_\_ Court at \_\_\_\_\_ of an offence punishable under Chapter XVII of the Penal Code with imprisonment for a term of 3 years, that is to say, the offence of house-breaking by night [*describe the offence in the words used in the section under which the accused was convicted*] which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Penal Code.

### XXVIII—Warrant of Commitment on a Sentence of Imprisonment or Fine

(See sections 175 and 181)

*To the Officer in charge of the Prison of*

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, [*name of prisoner*] was convicted in the \_\_\_\_\_ Court, \_\_\_\_\_, of the offence of \_\_\_\_\_ under section \_\_\_\_\_ [*or sections* \_\_\_\_\_] of the Penal Code [*or of the* \_\_\_\_\_ Act], and was sentenced to \_\_\_\_\_.

This is to authorise and require you, the said Officer, to receive the said \_\_\_\_\_ into your custody, together with this warrant, and carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(*Signature and Title of Office*)

(*Seal*)

**XXIX—Warrant of Imprisonment on Failure to Recover Amends by  
Distress**

*(See section 187)*

*To the Officer in charge of the Prison at*

Whereas of has brought against of  
the complaint that , and the same has been dismissed  
as frivolous [*or vexations*], and the order of dismissal awards payment  
by the said of of the sum of dollars as  
amends; and whereas the said sum has not been paid and cannot be  
recovered by distress of the movable property of the said and  
an order has been made for his simple imprisonment for the period of  
days, unless the aforesaid sum be sooner paid:

This is to authorise and require you, the said Officer, to receive the  
said into your custody, together with this warrant, and to keep  
him safely in prison for the said period of subject to the  
provisions of section 69 of the Penal Code, unless the said sum be  
sooner paid; and on the receipt thereof forthwith to set him at liberty,  
returning this warrant with an indorsement certifying the manner of its  
execution.

Given under my hand and the seal of the Court, this day  
of , 19

*(Signature and Title of Office)*

*(Seal)*

**XXX—Summons to a Witness**

*(See sections 39 and 176)*

In the Court

v

*To of*

Whereas your attendance is required in Court as it is understood  
that you are likely to be able to give material evidence in the above case:

You are hereby summoned to appear before the Court  
on the day of at m., to  
testify what you know concerning the matter of the said case, and not to  
depart thence without leave of the Court; and you are hereby warned  
that if you shall, without just excuse, neglect or refuse to appear on the  
said date, a warrant will be issued to compel your attendance.

And you are further required to bring with you and produce to the Court the following documents which are believed to be in your possession, viz.:—

Given under my hand and the seal of the Court, this                    day  
of                   , 19

Fees \$

(Signature and Title of Office)

(Seal)

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**XXXI—Summons to Assessors**

(See section 211)

To                    of

You are hereby required to attend on                    the                    day of  
                 , 19                   , at                    o'clock to serve as an Assessor in the  
                  Court                   , and to continue in attendance till duly dis-  
charged by the said Court from further attendance.

Dated this                    day of                   , 19

(Signature and Title of Office)

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**XXXII—Warrant of Commitment under Sentence of Death**

(See section 242)

*To the Officer in charge of the Prison at*

Whereas                    on the                    day of                    was duly con-  
victed in the                    Court,                   , of the offence of murder under  
section 302 of the Penal Code, and sentenced to suffer death.

This is to authorise and require you, the said Officer, to receive the  
said                    into your custody, together with this warrant and to keep  
him safely in prison until you shall receive the further warrant or order.

Dated this                    day of                   , 19

(Signature and Title of Office)

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**XXXIII—Warrant of Execution on a Sentence of Death**

(See section 245)

In the High Court of the Supreme Court of Brunei

*To the Superintendent of Prisons:*

Whereas in the High Court, holden at                    on the  
was found guilty of the murder of                    and was sentenced to death  
[and whereas an appeal to the Court of Appeal was dismissed on the



day of \_\_\_\_\_, 19\_\_\_\_], and whereas His Majesty the Sultan and Yang Di-Pertuan has not seen fit to exercise the Prerogative of Mercy.

This is to authorise and require you, the Superintendent of Prisons, to carry the said sentence of death into execution by causing the said \_\_\_\_\_ to be hanged by the neck till he is dead, at such time as you, acting under the powers of your said appointment as Superintendent of Prisons, shall appoint, and to return this Warrant to the Court with an indorsement certifying that the sentence has been carried into effect, together with a Certificate of Death under the hand of a Medical Officer.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Chief Justice/Judge)

(Seal)

#### XXXIV—Warrant to Levy a Fine by Distress and Sale

(See section 253)

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

Whereas \_\_\_\_\_ of \_\_\_\_\_ was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, convicted before me of the offence of \_\_\_\_\_ and sentenced to pay a fine of \_\_\_\_\_ dollars, and whereas the said \_\_\_\_\_ although required to pay the said fine, has not paid the same or any part thereof:

This is to authorise and require you to make distress by seizure of any property belonging to the said \_\_\_\_\_ which may be found within the District of \_\_\_\_\_ and, if within \_\_\_\_\_ next after such distress the said sum shall not be paid [or forthwith], to sell the property distrained, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Signature and Title of Office)

(Seal)

#### Form of Indorsement

Whereas it has been proved to me that the signature *T.S.* to the within warrant is that of *T.S.*, a Magistrate \_\_\_\_\_, I do hereby authorise the execution in the District of \_\_\_\_\_ of the said warrant by \_\_\_\_\_

(Magistrate)

**XXXV—Bond to appear and Receive Judgment***(See sections 263 and 264)*

Whereas I                    inhabitant of                    have been called upon to enter into a bond to appear before the Court of                    at                    if and when called upon to receive the judgment of the said Court for the offence of                    whereof I have been convicted, and in the meantime to keep the peace and to be of good behaviour: I hereby bind myself to appear on the                    day of                    , 19                    , in the said Court or whenever I shall be thereto required, and in the meantime to be of good behaviour and to keep the peace towards His Majesty the Sultan and Yang Di-Pertuan and to all his subjects; and in case I make default in any of the conditions herein I bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of                    dollars [which I hereby deposit].

Dated this                    day of                    , 19                   

*(Signature)*

*Where a Bond with Sureties is to be executed, add —* We do hereby declare ourselves sureties for the above named                    that he will appear in the Court of                    at                    on the                    day of                    , 19                    , or whenever he shall be thereto required, and that he will in the meantime be of good behaviour and keep the peace towards His Majesty the Sultan and Yang Di-Pertuan and towards all his subjects; and in case of his making default in any of the conditions herein, we bind ourselves, jointly and severally, to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of                    dollars [which we hereby deposit].

Dated this                    day of                    , 19                   

*(Signature)***XXXVI—Form of Petition of Appeal***(See section 272)*

*To Chief Justice and Justices of the High Court of the Supreme Court of Brunei: [or as the case may require].*

The petition of *A. B.*

Showeth as follows:

1. Your petitioner the above-named *A. B.*, was charged with                    and convicted at the                    Court held at                    on the                    day of                    , 19                    , and the following order was made thereon                    [here state shortly the substance of the judgment or sentence].

2. Your petitioner is dissatisfied with the said judgment on the grounds following: [*here state the particular grounds of appeal on which the appellant relies*].

3. Your petitioner prays that such judgment or sentence may be reversed or that such order may be thereon as justice may require.

(Appellant)

### XXXVII—Form of Special Case

(See section 294)

In the High Court of the Supreme Court of Brunei

In the matter of a complaint in which *A.B.* was complainant and *G.H.* accused.

Case stated by the undersigned under the provisions of section 294 of the Criminal Procedure Code.

At a Court held at \_\_\_\_\_ before the undersigned on the day of \_\_\_\_\_, 19\_\_\_\_, one *G.H.* the above-named accused was charged as follows:

At the hearing of the said charge it was proved before me that [*here set out so much of evidence and admitted facts of the case as is necessary to raise the question or questions of law intended to be submitted*].

It was thereupon contended on the part of the accused [or complainant as the case may be]. [*Here state the legal objection taken*].

But [*or And*] I being of opinion that [*here state the ground on which the Court decided the case*] held that [*here state the decision and judgment of the Court*].

The question for the opinion of the High Court is whether the said determination was correct in point of law and what should be done in the premises.

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

(Signature)

(Magistrate)

(Seal)

### XXXVIII—Warrant of Commitment in Certain Cases of Contempt when a Fine is Imposed

(See section 328)

To the Officer in charge of the Prison at \_\_\_\_\_

Whereas at a Court holden before me on this \_\_\_\_\_ day of \_\_\_\_\_ in the presence [*or view*] of the Court committed wilful contempt:

And whereas for such contempt the said \_\_\_\_\_ has been adjudged by the Court to pay a fine of \_\_\_\_\_ dollars, or in default to suffer simple imprisonment for the space of \_\_\_\_\_

This is to authorise and require you to receive the said \_\_\_\_\_ into your custody, together with this warrant, and to keep him safely in prison for the said period of \_\_\_\_\_ unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

*(Signature and Title of Office)*

*(Seal)*

### **XXXIX—Warrant of Commitment of Witness refusing to Answer**

*(See section 332)*

*To the Officer in charge of the Prison at \_\_\_\_\_*

Whereas \_\_\_\_\_ of \_\_\_\_\_ being summoned [*or brought before this Court*] as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question [*or certain questions*] put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for this contempt has been adjudged detention in custody for \_\_\_\_\_

This is to authorise and require the said \_\_\_\_\_ into custody, and to keep him safely in your custody for the space of \_\_\_\_\_ days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law; returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

*(Signature and Title of Office)*

*(Seal)*

### **XL—Form of Warrant**

*(See section 341)*

*To the Officer in charge of the Prison at \_\_\_\_\_ or Officer in charge of the [name of asylum] or to [name of officer] in charge of \_\_\_\_\_*

You are hereby required to produce \_\_\_\_\_ now a prisoner in the  
 [name of prison] or now in custody at the [name of asylum] or now in  
 your charge, before the \_\_\_\_\_ Court at \_\_\_\_\_ on the  
 day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ of the same day, there to be dealt  
 with according to law; and unless the said \_\_\_\_\_ shall then and there  
 by the said Court be ordered to be discharged, cause him, after the said  
 Court shall have dispensed with his further attendance, to be conveyed  
 back to the said prison [or asylum or other custody].

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

(Signature and Title of Office)

(Seal)

### XLI—Form of Warrant

(See section 341)

To the Officer in charge of the Prison at \_\_\_\_\_

You are hereby required to produce \_\_\_\_\_ now a prisoner in  
 your custody under a warrant of attachment before the \_\_\_\_\_ Court  
 on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ to be dealt with  
 according to law; and you shall then and there abide by such order as  
 shall be made by the said Court. And unless the said \_\_\_\_\_ shall then  
 and there by the said Court be ordered to be released you shall, after the  
 said Court shall have dispensed with his further attendance, cause him  
 to be conveyed back to the said prison [or other place of custody].

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

(Signature and Title of Office)

(Seal)

### XLII—Warrant to Bring up Prisoner to give Evidence

(See section 344)

To the Officer in charge of the Prison at \_\_\_\_\_

You are hereby required to produce \_\_\_\_\_ now a prisoner in  
 your custody before this Court on the \_\_\_\_\_ day of \_\_\_\_\_,  
 19\_\_\_\_, at \_\_\_\_\_ there to give evidence in a certain charge or pro-  
 secution now pending before this Court against \_\_\_\_\_ and after the  
 said \_\_\_\_\_ shall have given his testimony before this Court or this  
 Court shall have dispensed with his further attendance cause him to be  
 conveyed back to the prison.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day  
 of \_\_\_\_\_, 19\_\_\_\_

(Signature and Title of Office)

(Seal)

**XLIII—Bond and Bail Bond on a Preliminary Inquiry before a Magistrate***(See section 346)*

I                    of                    being in custody [*or* brought before the Court at                    ] charged with the offence of                    , and required to give security for my attendance in that Court [and in the High Court if required], do bind myself to attend at the said Court on every day of the preliminary inquiry into the said charge, and should the case be sent for trial by the High Court to be and appear before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of                    dollars [which I hereby deposit].

Dated this                    day of                    , 19

*(Signature)*

I hereby declare myself [*or* we jointly and severally declare ourselves and each of us] surety [*or* sureties] for the said                    that he shall attend at the                    Court at                    on every day of the preliminary inquiry into the offence charged against him and, should the case be sent for trial by the High Court, that he shall be and appear before the said Court to answer the charge against him; and, in case of his making default therein, I bind myself [*or* we bind ourselves, jointly and severally] to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of                    dollars [which we hereby deposit].

Dated this                    day of                    , 19

*(Signature)***XLIV—Warrant to Discharge a Person Imprisoned on Failure to give Security***(See section 350)**To the Officer in charge of the Prison at*

Whereas                    of                    was committed to your custody under warrant of this Court, dated the                    day of                    , 19                    , and has since with his surety [*or* sureties] duly executed a bond under the Criminal Procedure Code:

This is to authorise and require you forthwith to discharge the said                    from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this                    day of                    , 19

*(Signature and Title of Office)**(Seal)*

**XLV—Warrant of Attachment to Enforce a Bond***(See section 335)**To*

Whereas \_\_\_\_\_ of \_\_\_\_\_ has failed to appear on pursuant to his recognisance, and has by such default forfeited to His Majesty the Sultan and Yang Di-Pertuan the sum of \_\_\_\_\_ dollars and whereas the said \_\_\_\_\_ has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him:

This is to authorise and require you to attach any movable property of the said \_\_\_\_\_ that you may find within Brunei by seizure and detention; and if the said amount be not paid within 3 days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

*(Signature and Title of Office)**(Seal)***XLVI—Notice to Surety on Breach of a Bond***(See section 355)**To \_\_\_\_\_ of \_\_\_\_\_*

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, you became surety for \_\_\_\_\_ of \_\_\_\_\_ that he should appear before this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, and bound yourself in default thereof to forfeit the sum of \_\_\_\_\_ dollars to His Majesty the Sultan and Yang Di-Pertuan and whereas the said \_\_\_\_\_ has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of \_\_\_\_\_ dollars:

You are hereby required to pay the said penalty or show cause, within \_\_\_\_\_ days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

*(Signature and Title of Office)**(Seal)*





**XLIX—Warrant of Commitment of the Surety of an Accused Person  
admitted to Bail**

(See section 355)

To the Officer in charge of the Prison at

Whereas of has bound himself as a surety for the appearance of [state the condition of the bond] and the said has therein made default whereby the penalty mentioned in the said bond has been forfeited to His Majesty the Sultan and Yang Di-Pertuan and whereas the said has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of movable property of his, and an order has been made for his imprisonment for [specify the period]:

This is to authorise and require you, , to receive the said into your custody with this warrant, and to keep him safely in prison for the said [term of imprisonment] and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 19

(Signature and Title of Office)

(Seal)

**L—Notice to the Principal of Forfeiture of a Bond to Keep the Peace**

(See section 355)

To of

Whereas on the day of , 19 , you entered into a bond not to commit, etc. [as in the bond], and proof of the forfeiture of the same has been given before me and duly recorded:

You are hereby called upon to pay the said penalty of dollars or to show cause before me within days why payment of the same should not be enforced against you.

Dated this day of , 19

(Signature and Title of Office)

(Seal)

**LI—Warrant to Attach the Property of the Principal on Breach of a Bond to Keep the Peace***(See section 335)**To*

Whereas of did on the day of , enter into a bond for the sum of dollars, binding himself not to commit a breach of the peace, etc. [*as in the bond*], and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum:

This is to authorise and require you to attach by seizure the property belonging to the said to the value of dollars which you may find; and if the said sum be not paid within , to sell the property so attached or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 19

*(Signature and Title of Office)**(Seal)***LII—Warrant of Imprisonment on Breach of a Bond to Keep the Peace***(See section 355)**To the Officer in charge of the Prison at*

Whereas proof has been given before me and duly recorded that of has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to His Majesty the Sultan and Yang Di-Pertuan the sum of dollars; and whereas the said has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said for the period of

This is to authorise and require you, the said Officer of the said prison to receive the said into your custody, together with this warrant, and to keep him safely in the said prison for the said period of

; and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this                    day  
of                   , 19

*(Signature and Title of Office)*

*(Seal)*

**LIII—Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour**

*(See section 355)*

*To*

Whereas                    of                    did on the                    day of  
                 , 19                   , give security by bond in the sum of                    dollars  
for the good behaviour of                   , and proof has been given before me  
duly recorded of the commission by the said                    of the offence of  
                  whereby the said bond has been forfeited; and whereas notice  
has been given to the said                    calling upon him to show cause why  
the said sum should not be paid, and he has failed to do or to pay the  
said sum:

This is to authorise and require you to attach by seizure the property belonging to the said                    to the value of                    dollars, which you may find, and if the said sum be not paid within                    to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this                    day  
of                   , 19

*(Signature and Title of Office)*

*(Seal)*

**LIV—Warrant for Imprisonment on Forfeiture of Bond for Good Behaviour**

*(See section 355)*

*To the Officer in charge of the Prison at*

Whereas                    of                    did on the                    day of  
                 , 19                   , give security by bond in the sum of                    dollars  
for the good behaviour of                    and proof of the breach of the said  
bond has been given before me and duly recorded                   , whereby  
the said                    has forfeited to His Majesty the Sultan and Yang

Di-Pertuan the sum of \_\_\_\_\_ dollars; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his property, and an order has been made for the imprisonment of the said \_\_\_\_\_ for the period of \_\_\_\_\_

This is to authorise and require you \_\_\_\_\_, to receive the said \_\_\_\_\_ into your custody; together with this warrant, and to keep him safely in prison for the said period of \_\_\_\_\_; returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

*(Signature and Title of Office)*

*(Seal)*

## SUBSIDIARY LEGISLATION

**Resolution under section 183(2) permitting plea of guilty by post**

His Majesty the Sultan and Yang Di-Pertuan in Council has resolved that section 183(2) be applied to any offence under the Road Traffic Act and any regulations made thereunder other than an offence contrary to section 28 of that Act and other than an offence punishable by a term of imprisonment exceeding 6 months.

S.19/59  
Cap. 68

**Rules under section 262 relating to youthful offenders**

## YOUTHFUL OFFENDERS (PLACES OF DETENTION) RULES

S.35/58  
S.115/69  
S.19/83

## ARRANGEMENT OF RULES

## Rule

1. Citation
2. Interpretation
3. Administration

## PART I

## ACCOMMODATION

4. Accommodation
5. Accommodation by night
6. Place for sick inmates
7. Female inmates

[Subsidiary]

PART II

ADMISSION, DISCHARGE & REMOVAL

8. Admission and search of inmates
9. Inmate's property
10. Particulars of inmate
11. Medical examination on admission
12. Bath on reception
13. Disease on admission
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## YOUTHFUL OFFENDERS (PLACES OF DETENTION) RULES

*Commencement: 2nd April 1968*

1. These Rules may be cited as the Youthful Offenders (Places of Detention) Rules. Citation

2. In these Rules unless the context otherwise requires — Interpretation

“Advisory Board” means the person or body of persons appointed for the relevant year in relation to a place of detention by the Minister under subsection (5)(c) of section 262 of the Criminal Procedure Code and rule 102 of these Rules;

“Assistant Warden” means an officer appointed by His Majesty the Sultan and Yang Di-Pertuan to be an Assistant Warden in a place of detention;

“Criminal Procedure Code” means the Brunei Criminal Procedure Code; Cap. 7

“directed” means directed by a Warden, Housemaster or Assistant Housemaster;

“Housemaster” and “Assistant Housemaster” means a person appointed by His Majesty to be Housemaster or Housemistress or Assistant Housemaster or Assistant Housemistress of a place of detention;

“inmate” means —

(a) a person detained or ordered to be detained in a place of detention under the provisions of the Criminal Procedure Code; and

(b) a person discharged on parole under Part 15 of these rules;

“Medical Officer” means the person appointed by the Director of Medical Services as Medical Officer of a place of detention;

“Officer” means any officer working in, or in a post connected with, a place of detention;

“place of detention” means a place of detention for youthful offenders;

[Subsidiary]

“Superintendent” means the officer appointed by His Majesty as Superintendent of all places of detention;

“Warden” means the officer appointed by His Majesty to be the Warden of a place of detention.

Administration

3. (1) A place of detention shall be under the general charge and administration of a Warden, who shall be subject to and comply with such directions as may be given to him by the Superintendent.

(2) His Majesty shall appoint for each place of detention a Warden and such number of Assistant Wardens, Housemasters, Assistant Housemasters and other officers as may be necessary.

## PART I

## ACCOMMODATION

Accommodation

4. (1) A room or dormitory shall not be used for the confinement of inmates, unless it is certified by the Superintendent, on the advice of a Medical Officer, to be of such a size, and to be lit, ventilated and equipped in such manner, as may be requisite for health.

(2) The certificate shall specify the maximum number of inmates to be located at any one time in such room or dormitory, and the number so specified shall not be exceeded. In special circumstances, with the authority of the Superintendent, inmates may be located in tents.

Accommodation by night

5. Inmates may be accommodated by night in rooms or dormitories with not less than 3 inmates in each room or dormitory. Each inmate shall be provided with a separate bed.

Place for sick inmates

6. Sufficient accommodation for the reception, accommodation and treatment of sick inmates shall be provided in a place of detention.

Female inmates

7. (1) Female inmates shall be accommodated entirely separately from male inmates.

(2) Where a part of a place of detention which contains both male and female inmates has been set apart for female inmates, that part shall be in charge of a woman officer. It shall be entirely separate from the other part and shall be secured by locks, of which the keys shall be under the exclusive control of women officers.

## PART II

## ADMISSION, DISCHARGE &amp; REMOVAL

8. (1) The Warden shall, upon the delivery to him of a detention order, make all necessary arrangements for the conveyance of the inmate named therein to the place of detention.

Admission  
and search of  
inmates

(2) An inmate shall be searched on admission and at such times subsequently as may be directed, and all unauthorised articles shall be taken from him.

(3) The searching of an inmate shall be conducted in as seemly a manner as is consistent with the necessity of discovering any concealed article.

(4) A female inmate shall be searched by women only.

9. All money, clothing or other effects belonging to an inmate, which he is not allowed to retain, shall be placed in the custody of the Warden, who shall keep an inventory thereof, which shall be signed by the inmate.

Inmate's  
property

10. On admission, and from time to time as may be required, every inmate shall be photographed and his or her name, age, height, weight, distinguishing and other measurements and particulars shall be recorded in such a manner as may be directed.

Particulars of  
inmate

11. An inmate shall, on the day of his reception or as soon as possible thereafter be examined by the Medical Officer.

Medical ex-  
amination on  
admission

12. An inmate shall be given a bath on the day of his reception, unless it is otherwise directed, in any particular case, by the Warden or Medical Officer.

Bath on re-  
ception

13. If an inmate is found to have any infectious or contagious disease or to be in a verminous condition, steps shall at once be taken to treat the condition and to prevent it from spreading to other inmates.

Disease on  
admission

14. The Warden shall see an inmate on reception and explain to him the rules of the place of detention.

Notification  
of rules

15. An inmate shall be examined by the Medical Officer before being discharged, or removed to another place of detention. No inmate shall be removed to any other place of detention unless the Medical Officer

Medical ex-  
amination be-  
fore transfer  
or discharge

[Subsidiary]

certifies that he is fit for removal. No inmate who is suffering from any acute or dangerous illness shall be discharged from the place of detention until, in the opinion of the Medical Officer, it is safe to do so or, his sentence having expired, he refuses to stay.

Privacy during transfer

16. An inmate shall be exposed to public view as little as possible while being removed from, or taken to, a place of detention.

Custody outside place of detention

17. An inmate, for whose production at any place an order is issued, shall, while outside the place of detention, remain in the lawful custody of the officers directed to convey him to that place.

Children of female inmate

18. Subject to such conditions as may be prescribed by the Superintendent, the infant child of a female inmate may be received into a place of detention with its mother, and may be supplied with clothing and necessaries at the Government expense.

## PART III

## PROHIBITED ARTICLES

Possession

19. No inmate shall have in his possession any prohibited article. Any such article which may be found in the possession of an inmate may be confiscated by the Warden.

Conveyance of prohibited articles

20. No person shall, without authority, convey or throw into, or deposit in, a place of detention, or convey or throw out of a place of detention, or convey to any inmate of a place of detention, or deposit with a view to its coming into possession of any such inmate, any money, clothing, food, drug, drink, tobacco, letter, paper, book, tool, or other article. Anything so conveyed, deposited or thrown without authority may be confiscated by the Warden.

Search on entering or leaving

21. Any person or vehicle entering or leaving a place of detention may be examined and searched. Any person suspected of bringing any prohibited article into the place of detention, or of carrying out any prohibited article or any property belonging to a place of detention, shall be stopped, and immediate notice thereof shall be given to the Warden.

Liquor

22. No inmate shall be given, or allowed to have any intoxicating liquor.



[Subsidiary]

23. No inmate shall be allowed to smoke, or to have in his possession any tobacco, except in accordance with such orders as may be given by the Warden. Tobacco

## PART IV

## CLOTHING AND BEDDING

24. An inmate shall be provided with an outfit of clothing adequate for warmth and health in accordance with a scale approved by the Superintendent: Clothing outfit

Provided, however, that, with the authority of the Warden, other clothing may be worn in special circumstances or if recommended by the Medical Officer.

25. An inmate shall be supplied with bedding adequate for warmth and health in accordance with a scale approved by the Superintendent. Additional bedding may be authorised in special circumstances on the recommendation of the Medical Officer. Bedding scale

26. Except as provided in rules 24 and 25, no inmate shall, without the authority of the Warden, receive or have in his possession any clothing, bedding, or equipment, in excess of the authorised allowance. Excess prohibited

## PART V

## FOOD

27. An inmate shall be supplied with food in accordance with the dietary scales set out in the First Schedule to these Rules. Diet

28. No inmate shall receive, or have in his possession any food other than the allowance authorised by the dietary scales, except — Extra food

(a) with the authority of the Warden; or

(b) with the authority of the Medical Officer, if a variation of diet is desirable on medical grounds.

29. An inmate who has any complaint to make regarding food supplied to him must make it as soon as possible after the food is served. Complaints about food

[Subsidiary]

## PART VI

## HEALTH AND CLEANLINESS

- Bath and hair cutting 30. An inmate shall obey such directions as may from time to time be given as regards washing, bathing, shaving and hair cutting.
- Hair cutting of females 31. A girl's hair shall not be cut off without her consent, unless it is verminous or dirty, or when the Medical Officer deems it requisite on the ground of health.
- General cleanliness 32. An inmate shall keep his room, utensils, books and any articles issued for his use, and his clothing and bedding, clean and neatly arranged, as may be directed.
- Exercise 33. (1) An inmate, if medically fit, shall be exercised regularly at physical drill and gymnastics.
- (2) An inmate, unless excused by the Medical Officer on medical grounds, shall take such exercise as may be directed.

## PART VII

## EMPLOYMENT

- Work 34. (1) An inmate, unless excused by the Medical Officer on medical grounds, shall, from the beginning of his sentence, be employed, on the necessary services of the place of detention, or in workshops or on outdoor work; and shall be instructed, as far as possible, in useful occupations, which may help him to earn his livelihood on discharge.
- (2) An inmate who has not been excused by the Medical Officer shall be required to work at least 35 hours a week.
- (3) The Warden of a place of detention may introduce therein a scheme approved by the Superintendent under which inmates may receive payment for work done.
- Holidays 35. Arrangements shall be made for the avoidance of all unnecessary work on one day in each week, as the Superintendent may direct, and on all public holidays.

## PART VIII

## RELIGIOUS INSTRUCTIONS

36. Adequate arrangements shall be made for the provision of Islamic religious ministrations or instruction to an inmate who professes the Islamic religion. Religion

37. An inmate shall, from the beginning of his training, be furnished with such religious books, as may be available. Religious books

## PART IX

## EDUCATION

38. Provision shall be made for educational classes for the benefit of all inmates. Classes

39. A library of books for the use of the inmates shall be provided in a place of detention. An inmate shall be allowed to have not more than 3 library books in his room at any one time and to exchange them as often as may be possible. Library books

## PART X

## VISITS AND COMMUNICATIONS

40. (1) Communications between an inmate and his relatives and friends shall be allowed, subject to such restrictions as may be necessary for the maintenance of discipline and order in the place of detention and for the welfare of the inmates. Letters and visitors

(2) An inmate shall be allowed to write and receive letters on arrival at a place of detention. He shall be further allowed to write to, and receive from, approved correspondents one letter a month. An inmate shall be allowed to receive a visit from approved visitors (not exceeding 3 in number at any one time) at intervals of not less than 2 months. These privileges shall not be liable to forfeiture for any offence against discipline under Part II of these Rules.

(3) In addition, the Warden may allow an inmate to write a special letter and to receive a reply thereto or to receive a special visit, if the Warden deems such a letter or visit necessary or expedient.

[Subsidiary]

(4) The Warden may at any time communicate to an inmate, or to his friends, any matter of importance to such inmate.

(5) The degree of supervision to be exercised during visits to an inmate shall be at the discretion of the Warden.

Home leave 41. (1) The Warden may permit an inmate on such conditions and for such period as the Warden may specify, to be absent from a place of detention. Should the inmate break any condition, while absent from the place of detention, he shall be liable to be dealt with as though he had been discharged on a parole licence.

(2) Such permission shall be given in the form set out in the Second Schedule.

Visit by legal adviser 42. (1) Reasonable facilities will be allowed to the legal adviser of any inmate to see him in reference to any legal matters, in the sight but not in the hearing of an officer of the place of detention.

(2) For the purpose of this rule "legal adviser" means the inmate's counsel or solicitor, or the authorised clerk of such counsel or solicitor.

Visit by police officer 43. On production of an order from the proper police authority, a police officer may visit an inmate in the place of detention, in the sight and hearing of an officer of the place of detention.

Letters 44. A letter to or from an inmate shall be read by the Warden, or by a responsible officer deputed by him of the purpose. It shall be within the discretion of the Warden to stop any letter, if he considers the contents to be objectionable.

## PART XI

## OFFENCES AGAINST DISCIPLINE

Reports on inmates 45. A report against an inmate shall be dealt with by the Warden.

Inmate may be segregated 46. When an inmate has been reported for an offence, the Warden may order him to be kept apart from other inmates, pending adjudication.

[Subsidiary]

47. An inmate shall, before a report is dealt with, be informed of the offence for which he has been reported and shall be given an opportunity of hearing the facts alleged against him and of being heard in his defence.

Inmate to be informed of alleged offence

48. An inmate shall be guilty of an offence against place of detention discipline if he —

Offences

(a) disobeys an order of the Warden or of any other officer of the place of detention;

(b) is idle, careless, negligent at work, or refuses to work;

(c) is indecent in language, act or gesture;

(d) escapes from the place of detention or from legal custody;

(e) mutinies or incites other inmates to mutiny;

(f) commits personal violence against any officer or servant of the place of detention, or any other inmate;

(g) in any way offends against these rules or the good order and discipline of the place of detention;

(h) attempts to do any of the foregoing things.

49. (1) The Warden may examine any person touching any alleged offence against the discipline of the place of detention and determine thereupon, and make one or more of the following awards —

Punishment by Warden

(a) removal to the Penal Grade;

(b) deprivation of any of the following privileges for a period not exceeding one month —

(i) association;

(ii) playing games;

(iii) earnings;

(c) loss of stage or grade for a period not exceeding 3 months;

[Subsidiary]

(d) confinement to a room for a period not exceeding 3 days;

(e) restricted diet for a period not exceeding 3 days;

(f) deprivation of mattress for a period not exceeding 7 days.

(2) An offence against discipline shall be reported forthwith. The Warden shall investigate such reports as soon as practicable.

Advisory  
Board's pow-  
ers

50. (1) Where an inmate is reported for any of the following offences, viz —

(a) escaping from the place of detention or from legal custody;

(b) a serious or repeated offence against discipline for which such award as the Warden is authorised to make is deemed by him insufficient;

(c) an offence upon which the Warden, having regard to the circumstances of the case, thinks it expedient that the Advisory Board should adjudicate,

the Warden may forthwith report the offence to the Chairman of the Advisory Board, who shall thereupon arrange for not less than 2 members of the Board to enquire into the report.

(2) Where an enquiry is held under paragraph (1) of this Rule, the members of the Advisory Board may make one or more of the following awards —

(i) any award authorised under Rule 49(1);

(ii) deprivation of privilege;

(iii) loss of stage or grade;

(iv) deprivation of mattress for a period not exceeding 15 days;

(v) confinement to a room for a period not exceeding 14 days;

(vi) restricted diet for a period not exceeding 15 days;

(vii) whipping with a light cane not exceeding 10 strokes.

[Subsidiary]

(3) Offences may also be reported to the Superintendent, and the Superintendent shall have authority to enquire into the report and deal with it in the same manner as the Advisory Board.

51. (1) If an inmate is charged with —

(a) mutiny or incitement to mutiny;

(b) gross personal violence to an officer or servant of the place of detention, or to another inmate;

Power to  
award cor-  
poral punish-  
ment

the Warden shall, forthwith, report the same to the Advisory Board.

(2) Two members of the Board may determine the matter and make awards under their powers as set forth in rule 50 or, in the case of a male inmate, order corporal punishment. This shall not exceed 6 strokes, in the case of a juvenile under the age of 14 years, and 10 strokes, in the case of any other inmate, in addition to or in lieu of any such awards.

(3) Whenever an order for corporal punishment is made, the Advisory Board shall forthwith furnish to the Superintendent a copy of the note of evidence, and a report of the order and of the grounds on which it was made. Such order shall not be carried into effect until it has been confirmed by the Superintendent.

(4) The order for corporal punishment shall be duly entered in the prescribed manner, and the number of strokes shall in all cases be stated in the order.

52. (1) A disciplinary award may be remitted or reduced by the Superintendent.

Remission of  
punishment

(2) A disciplinary award, other than one of corporal punishment, may be determined at any time during the currency thereof by the Warden. In any case where such an award has been made by the Advisory Board or Superintendent, he shall forthwith inform them of the action taken by him.

53. Confinement to a room, corporal punishment or restriction of diet shall in no case be awarded unless the Medical Officer has certified that the inmate is in a fit condition of health to sustain it.

Requirement  
of certificate  
of Medical  
Officer that  
inmate is fit  
to undergo  
punishment

54. An inmate undergoing confinement to a room, or subjected to restricted diet, shall be visited at least once a day by the Warden. An inmate confined to a room shall be visited by the appointed officer at intervals of not more than 3 hours during the day.

Visit to in-  
mates sent-  
enced to con-  
finement

## [Subsidiary]

Corporal  
punishment

55. (1) The carrying out of corporal punishment within a place of detention shall be attended by the Warden and the Medical Officer.

(2) The Medical Officer shall, immediately before the punishment is inflicted, examine the inmate and satisfy himself that he is in a fit condition of health to undergo the punishment, and shall make such recommendations for preventing injury to the inmate's health as he may deem necessary. The Warden shall carry such recommendations into effect.

(3) At any time after the infliction of the punishment has commenced the Medical Officer may, if he deems it necessary in order to prevent injury to the inmate's health, recommend that no further punishment be inflicted. The Warden shall thereupon remit the remainder of the punishment.

(4) The Warden shall enter in the corporal punishment book the hour at which the punishment was inflicted, the number of strokes inflicted, and any orders which he may have given as to remission.

(5) Corporal punishment shall be inflicted with a light cane.

Restricted  
diets

56. (1) The restricted diets which may be awarded under rules 49 and 50 shall be prescribed from time to time by His Majesty in Council.

(2) If a restricted diet is ordered for a longer period than 6 days, the offender shall receive 3 days ordinary diet after each period of 6 days restricted diets.

(3) An inmate shall not be obliged to work on any day on which restricted diet constitutes the sole food supplied to him. The inmate may, nevertheless, be allowed to perform suitable labour, if he so elects.

(4) An inmate who has been on restricted diet shall not be placed upon this diet for a fresh offence until an interval has elapsed equal to the period already spent by the inmate on restricted diet.

## PART XII

## RESTRAINTS

Mechanical  
restraints for-  
bidden as a  
punishment

57. No inmate shall be put under mechanical restraints as a punishment.



[Subsidiary]

58. (1) The Warden may place an inmate under mechanical restraint when it appears to him to be necessary in order to prevent an inmate from injuring himself or others, or from damaging property or creating a disturbance. Notice thereof shall forthwith be given to the Medical Officer.

Circumstances in which mechanical restraint may be ordered

(2) No inmate shall be kept under mechanical restraint for longer than is necessary, and in any case not for more than 24 hours, unless an order in writing from the Warden is given, specifying the cause thereof and the time during which the inmate is to be so kept.

(3) Particulars of every case of mechanical restraint shall be forthwith recorded by the Warden.

59. The Warden may order any refractory violent inmate to be temporarily confined in a special room certified for the purpose, but no inmate shall be confined in such a room as a punishment or for longer than is necessary.

Violent inmates may be confined temporarily to a special room

### PART XIII

#### COMPLAINTS BY INMATES

60. (1) A request by an inmate to see the Warden or Superintendent or a member of the Advisory Board shall be recorded by the officer to whom it is made and conveyed, without delay, to the Warden, who shall inform the Superintendent or member of the Advisory Board, as the case may be, of any such request.

Complaints

(2) The Warden shall, at a convenient hour every day, other than the weekly holiday and public holidays, hear the application of any inmate who has requested to see him.

### PART XIV

#### CLASSIFICATION AND GRADES

61. The Superintendent shall classify all inmates, having regard to their character, previous history and other relevant circumstances and shall arrange for each inmate to receive his training at the place of detention which in his opinion is most suitable.

Classification of inmates

**[Subsidiary]**

Inmates to be  
divided into  
grades

62. (1) An inmate may be placed in the Penal Grade by order of the Warden, if he is satisfied that such inmate is exercising a bad influence or is idle or ill-conducted. No inmate shall be detained in it longer than is necessary in the interests of himself or others. While in the Penal Grade he shall not be employed in association with other inmates and shall receive no payment.

(2) An inmate shall not be promoted in grade, except after full consideration of the circumstances of his case by a Board, called the "Place of Detention Board", composed of such officers as the Superintendent may decide. The board may also order reversion to a lower grade, if, for some reason other than an act of misconduct, they consider it desirable.

## PART XV

## DISCHARGE ON PAROLE

Discharge on  
parole after  
12 months

63. (1) An inmate shall become eligible for release on parole after he has served 12 months of his terms of detention. If the Place of Detention Board, after consideration of an inmate's character and conduct, are of the opinion that there is a reasonable probability that he will lead a useful and industrious life and abstain from crime, they shall so recommend to the Advisory Board.

(2) The Advisory Board shall consider any recommendation made to them under this Rule and they may, if they think fit, recommend to the Minister that the inmate be released on parole.

(3) If the Minister is satisfied that an inmate who has been released on parole has escaped from the supervision of the person under whose care he has been placed, or has been guilty of serious and wilful breach of the conditions of his parole, and that case cannot be dealt with by admonition and warning, he may revoke the parole.

(4) An inmate whose parole has been revoked may, on readmission to a place of detention, be detained in the Penal Grade for such length of time as the Warden shall deem necessary, having regard to all the circumstances of the case.

(5) Forms of parole and or revocation of parole, and the conditions thereof, shall be in the appropriate form set out in the Second Schedule to these Rules.

## PART XVI

## STAFF

64. (1) An officer shall conform to the rules and regulations of the place of detention and shall support the Warden in the maintenance thereof. Officer to conform to rules and regulations
- (2) An officer shall obey the lawful instructions of the Warden.
- (3) An officer shall report to the Warden any abuse or impropriety which may come to his knowledge.
65. No officer shall be absent from the place of detention without leave of the Warden. No absence without leave
66. An officer shall direct the attention of the Warden to any inmate, whether he complains or not, who appears to be unwell, or whose state of mind appears to be deserving of special notice and care. The Warden shall without delay bring such cases to the notice of the Medical Officer. Health of inmates to be brought to the notice of Warden
67. (1) No officer, in dealing with an inmate, shall use force unnecessarily. In any case in which the application of force to an inmate is necessary, no more force than is reasonable shall be used. Officers dealing with inmates
- (2) No officer shall deliberately act in a manner calculated to provoke an inmate.
- (3) No officer shall discuss his duties or any matters of discipline or of the place of detention arrangements within the hearing of an inmate.
- (4) No officer shall deal with an inmate for an improper purpose.
68. (1) No officer shall, without the authority of the Superintendent carry out any pecuniary or business transaction with, or on behalf of, an inmate. Officers not to act on behalf of any inmate
- (2) No officer shall, without the authority of the Warden, bring in or carry out, or attempt to bring in or carry out, or knowingly allow to be brought in or carried out, to or from an inmate any article whatsoever.
69. No officer shall receive any fee, gratuity or other consideration in connection with the admission of any visitor to a place of detention. Officers not to receive fees

[Subsidiary]

Communica-  
tion with ex-  
inmates

70. No officer shall communicate with an ex-inmate or with the friends or relatives of an inmate or ex-inmate, except with the knowledge of the Warden.

Officers to  
have no deal-  
ings with con-  
tractors

71. No officer shall, directly or indirectly, have any interest in any contract in connection with a place of detention, nor shall he receive, directly or indirectly, under any pretence whatever, any fee, gratuity or other consideration from any contractor or from any person tendering or any other person whatever in connection with any such contract.

Officers to  
submit to  
search

72. An officer or servant of the place of detention shall submit himself to be searched in the place of detention if called upon to do so by the Warden.

Officers not  
to communi-  
cate with  
press

73. (1) No officer shall, directly or indirectly, make any unauthorised communication to any representative of the press or to any other person on matters which have become known to him in the course of his official duties.

(2) No officer shall, without the authority of the Superintendent publish any matter, or make any public pronouncement relating to, a place of detention or an inmate.

Officers'  
quarters

74. (1) An officer shall occupy such quarters as may be assigned to him; and shall vacate them, if required to do so by the Superintendent.

(2) On the termination of an officer's service, he shall give up the quarters he has occupied, as soon as he is required to do so. On the death of an officer, his family shall give up the quarters, when required to do so.

Clothing allo-  
wance

75. An officer of a place of detention who is required to wear civilian clothes as part of his duties will receive a clothing allowance at the rate of \$30.00 per month.

Teaching  
allowance

76. An allowance for part-time teaching will be paid in accordance with the rates paid by the Education of Religious departments, as the case may be.

PART XVII

WARDEN

Responsibili-  
ties of War-  
den

77. (1) The Warden shall be responsible for the maintenance of discipline in the place of detention.

(2) The Warden shall also be responsible for all property in the place of detention and shall keep the following records —

(a) an inventory of the furniture and tools in the place of detention;

(b) a diary in which all occurrences of importance within the place of detention must be recorded;

(c) a nominal record of each inmate committed to the place of detention, showing the date and period of his commitment, the names and addresses of his parents (if known), his distinguishing marks, general appearance, race, language, nationality, apparent age, health, height and weight;

(d) a record of the conduct and health of inmates while in the place of detention shall be kept;

(e) a punishment book in which all punishments shall be recorded;

(f) an Advisory Board's book for the entry of observations by members of the Board;

(g) an account of all materials purchased for use in the workshops of the place of detention and the disposal thereof;

(h) a record of all articles manufactured in the place of detention, and of all sales of such articles, showing cost of materials, transport, and other expenses connected thereof.

(3) In the absence of the Warden, the Assistant Warden shall have the powers and duties of the Warden.

(4) The Warden and the Assistant Warden shall never be absent from the place of detention at the same time.

(5) The Assistant Warden and the subordinate staff of the place of detention shall be under the orders of the Warden.

(6) The Warden may, subject to the limitations laid down in these Rules, inflict punishment where it appears necessary it should be inflicted immediately.

**[Subsidiary]**

General  
duties

78. (1) The Warden shall exercise a close and constant personal supervision of the place of detention. He shall visit and inspect daily all parts of the place of detention where inmates are employed or confined, and shall give special attention to an inmate who is confined to his room, and to an inmate who is a hospital patient.

(2) The Warden shall, from time to time visit the place of detention during the night. Such visits shall be made at varying intervals and at varying times and not less often than twice a fortnight.

(3) The Warden shall interview an inmate as soon as possible after his reception, and prior to his discharge.

Power to sus-  
pend

79. The Warden, in case of misconduct, may suspend any officer, and shall report the particulars without delay to the Superintendent.

Warden to  
carry out the  
recommenda-  
tions of the  
Medical  
Officer

80. The Warden shall, so far as practicable, carry into effect any written recommendation, made by the Medical Officer on grounds of health, for the alteration of the discipline or treatment of any inmate, or for his separation from other inmates.

Warden to in-  
form relatives  
of inmates

81. When an inmate is, in the opinion of the Medical Officer, dangerously ill, the Warden shall whenever practicable forthwith inform the relatives of such inmate.

Warden to  
report cases  
of insanity

82. The Warden shall, without delay, report to the Superintendent any case of insanity or apparent insanity occurring among the inmates, or any case in which the Medical Officer has submitted a report under rule 95(1), 95(2) or 96(2).

Warden to  
maintain  
place of de-  
tention in  
proper order

83. The Warden shall pay attention to the ventilation, drainage and sanitary condition of the place of detention, and take such measures as may be necessary for their being maintained in proper order.

Warden to  
notify Coroner  
of death of  
inmate

84. Upon the death of an inmate, the Warden shall give immediate notice thereof to the Coroner having jurisdiction in respect of such death, to the Superintendent and, where practicable, to the nearest relative of the deceased.

Inquest on in-  
mates

85. (1) The Warden shall supply to the Coroner the name of any inmate who can give relevant evidence in an inquest about to be held on the body of an inmate.

(2) After any inquest on an inmate the Warden shall report to the Superintendent the finding of the inquest and such other circumstances of importance as may arise at the inquest.

[Subsidiary]

86. The Superintendent may appoint any officer to perform, in the absence of the Warden, all or any of the duties required to be performed by the Warden.

Appointment of officer in absence of Warden

87. (1) Further the Superintendent and the Warden may, in the exercise of his discretion, allow any person to visit the place of detention.

Visitors to place of detention

(2) No person visiting a place of detention shall, without the permission of the Warden, make any sketch, or take any photograph, and this permission shall not be granted, unless an undertaking is given, that the sketch or photograph will not be published without the authority of the Superintendent.

88. The Warden may remove from the place of detention any visitor whose conduct is improper.

Removal of visitor for misconduct

89. The Warden shall take care that proper precautions against fire are adopted, and that the appliances for the extinction of fire are at all times kept in good order and ready for use. He shall take care that instructions are given as to the steps to be taken in case of fire, and that all officers are acquainted with their duties in such an event.

Fire precautions

## PART XVIII

## MEDICAL OFFICER

90. The Medical Officer shall have the general care of the health of the inmates. If practicable he shall visit the place of detention daily.

General duties

91. The Medical Officer shall report to the Superintendent, through the Warden, any circumstances connected with the place of detention or the treatment of the inmates, which, at any time, appears to him to require consideration on medical grounds.

Report by Medical Officer

92. (1) The Medical Officer shall visit the place of detention at such times as may be prescribed by the Director of Medical Services.

Visits by Medical Officer

(2) The Medical Officer shall examine an inmate as soon as possible after his admission and before discharge. On each occasion the Medical Officer shall record the health of the inmate and such particulars as may be prescribed by the Superintendent.

(3) The Medical Officer shall see an inmate who complains of illness, and shall report to the Warden in writing his fitness or otherwise

[Subsidiary]

for work. He shall visit a sick inmate at such times as may be necessary. He shall attend as soon as is practicable on receiving information of the serious illness of any inmate.

(4) The Medical Officer shall visit an inmate under restraint, confined to a room, or on restricted diet, and any other inmate to whom his attention is specially directed.

(5) When an inmate is about to be removed from the place of detention, the Medical Officer shall examine him and certify as to his fitness to travel and on such other matters regarding him as may be required.

(6) The Medical Officer shall frequently examine the provisions made for cleanliness and sanitation and examine that they are in efficient working order. He shall report to the Warden any defect or insufficiency therein.

(7) The Medical Officer shall keep a record of the death of an inmate, which shall include the following particulars —

(a) the time and date when the deceased was taken ill and when the illness was first notified to him;

(b) the nature of the disease;

(c) the time and date of the death; and

(d) an account of the results of any post-mortem examinations made and any special remarks that appear to him to be required.

Quarterly inspection

93. Once a quarter, the Medical Officer shall inspect every part of the place of detention, for the purpose of ascertaining that nothing exists therein likely to be injurious to the health of the inmates, and, especially, that the ventilation is sufficiently provided for and properly maintained. The result of this inspection shall be reported to the Superintendent.

Food inspection

94. The Medical Officer shall frequently inspect the inmates' food both cooked and uncooked. He shall report to the Warden as to the state and quality of the food, as to any deficiency in the quantity, or the quality, of the water, as to the sufficiency of clothing and bedding, and on other matters which may affect the health of the inmates.



[Subsidiary]

95. (1) Whenever the Medical Officer has reason to believe that the health of an inmate is likely to be injuriously affected by the discipline or treatment of a detention centre, he shall report the case in writing, through the Warden, to the Superintendent, together with such recommendations as he thinks proper.

Reports on  
dangers to in-  
mates' health

(2) Whenever the Medical Officer is of the opinion that the life of any inmate will be endangered by continued discipline, or that any sick inmate will not survive his sentence, or is totally and permanently unfit for training, he shall report his opinion and the grounds thereof in writing, through the Warden to the Superintendent.

(3) Whenever any inmate appears to the Medical Officer to be dangerously ill, he shall give notice thereof to the Warden.

(4) The Medical Officer shall report, in writing to the Warden the case of any inmate to which he thinks it necessary, on medical grounds, to draw attention, and shall make such recommendations as he deems needful for the alteration of the discipline or treatment of the inmate, or for the supply to him of additional articles.

96. (1) The Medical Officer shall keep under close observation any inmate whose mental condition appears to require it. If necessary, he shall take steps as he may consider proper with a view to the segregation or removal of such inmate to a place of detention designated for the observation of weak-minded inmates, or to the certification of the inmate under any law relating to lunacy, mental deficiency or disorder.

Mental  
health of in-  
mate

(2) The Medical Officer shall report to the Superintendent, through the Warden, any case of an inmate whose mental health appears likely to become impaired by continued discipline or treatment.

97. The Medical Officer shall submit to the Warden, in writing, a recommendation for separating from other inmates any inmate suffering, or suspected of suffering, from any infectious or contagious disease, and shall immediately take steps to treat such disease.

Contagious  
diseases

## PART XIX

### HOUSEMASTERS

98. Where a place of detention is divided into Houses, a Housemaster shall be responsible for the administration of each house, subject to the general directions of the Warden.

Housemas-  
ter's respon-  
sibility

**[Subsidiary]**Assistant  
Housemaster

99. One or more Assistant Housemasters may be attached to each House, and shall be subjected to the directions of the Housemaster in charge of the House.

Duties of  
Housemas-  
ters

100. Housemasters and Assistant Housemasters shall devote themselves to the mental, physical and moral improvement and development of each inmate under their charge.

Housemas-  
ters officers  
of the place  
of detention

101. Housemasters and Assistant Housemasters shall be officers of the place of detention, and the rules for officers generally shall apply to them.

## PART XX

## ADVISORY BOARD

Appoint-  
ment, duties  
and power of  
Advisory  
Board

102. (1) The Minister shall for each year appoint a Board to be called "The Advisory Board".

(2) Any member of the Board may at any time visit any place of detention and during such a visit may —

(a) inspect the several wards, cells, yards, solitary or punishment cells and other apartments or divisions of the place of detention;

(b) inspect and test the quality and quantity of the inmates' food;

(c) hear complaints (if any) of the inmates and question any inmates or member of the staff;

(3) During a visit to a place of detention, a member of the Board shall —

(a) ascertain as far as possible, whether the place of detention rules are adhered to;

(b) call the attention of the Warden to any inequality that may be observed in the working of the place of detention or in the treatment of any inmate;

(c) exercise and perform such other powers and duties as may be prescribed.

[Subsidiary]

(4) The Board shall appoint one or more of its members, in rotation, to visit a place of detention in each month of the year.

## PART XXI

## APPOINTMENT OF PLACES OF DETENTION

103. The places specified in the Third Schedule are appointed places of detention. Appointment  
of places of  
detention

## FIRST SCHEDULE

## (Rule 27)

## Diet scales per inmate

Rice	12 tahl daily
Sugar	1½ tahl daily
Groundnut oil	1½ tahl daily
Tea or Coffee	¾ tahl daily
Salt	¾ tahl daily
Vegetable (any kind)	8 tahl daily
Fresh fruits	4 tahl daily
Curry stuff	¾ tahl daily
Bread	3 ozs daily
Condensed Milk	1 oz daily
Soya bean cake	1 oz 5 times a week
Meat	8 tahl 3 times a week
Fish	8 tahl 3 times a week
Salted Fish	4 tahl 1 time a week
Sweet potatoes	4 tahl 3 times a week
Yam	4 tahl 2 times a week
Tapioca or Biscuit	4 tahl 2 times a week
Green peas	2 tahl 3 times a week
Red peas	2 tahl 3 times a week
Jam	½ oz daily
Butter	½ oz daily

## Restricted diet

Bread	16 ozs per day
Cheese	2 ozs per day



**Conditions**

1. The within named shall proceed to such place as is directed by  
and shall not without the consent of the person  
under whose charge he/she had been placed, remove from that  
place or such other place as may be named by the person.
2. The within named shall obey such instructions as may be given with  
regard to punctual and regular attendance at employment or other-  
wise, shall report periodically, either personally or by letter, if re-  
quired to do so, and shall make no change of address without per-  
mission.
3. The within named shall abstain from any violation of law, shall not  
associate with persons of bad character, and shall lead a sober,  
steady and industrious life to the satisfaction of
4. The within named shall not visit the place of detention or write to  
any inmate in it without first obtaining the permission of the War-  
den.



**Conditions**

1. The within named shall proceed to such place as is directed by  
and shall not without the consent of the person  
under whose charge he/she had been placed, remove from that  
place or such other place as may be named by the person.
2. The within named shall obey such instructions as may be given with  
regard to punctual and regular attendance at employment or other-  
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steady and industrious life to the satisfaction of
4. The within named shall not visit the place of detention or write to  
any inmate in it without first obtaining the permission of the War-  
den.





**Youthful Offenders (Places of Detention) Rules**

**Home Leave**

**(Rule 41)**

Date:

To:

You are hereby given leave of absence from the place of detention in which you are an inmate, on the following conditions —

1. You will go to such place as the Warden directs.
2. You will not change your address without permission.
3. You will keep away from persons of bad character.
4. You will report to the Parole Officer, as directed by the Warden. If the Parole Officer gives you any instructions, you will carry them out. You should consult him if you want advice or help.
5. You will report back at the place of detention by \_\_\_\_\_ on \_\_\_\_\_.  
If you fail to return at the proper time, you will be liable to be arrested. No extension of this home leave will be granted.
6. You will keep this form on you all the time that you are on home leave. You will produce it if required to do so.
- 7.

( Warden  
place of detention)

I have read and understood the above conditions of leave of absence from the place of detention which has been granted to me.

Inmate

[Subsidiary]

## THIRD SCHEDULE

(Rule 103)

## Appointed Places of Detention

Jerudong Prison

S.45/56 **Rules under section 384 prescribing rates of payment of expenses of prosecutors and witnesses**

CRIMINAL PROCEDURE (ALLOWANCE TO WITNESSES)  
RULES

- |                  |  |
|------------------|--|
| Citation         | 1. These rules may be cited as the Criminal Procedure (Allowance to Witnesses) Rules.  |
| Rates of payment | 2. The rates of payments which the Court may order to be paid out of the Treasury to witnesses both for the prosecution and for the defence, or to such of them as the Court thinks fit, in criminal cases shall be those prescribed in the First Schedule hereto. |
| Certificates     | 3. The certificate required by section 385 of the Criminal Procedure Code shall be in the form prescribed in the Second Schedule hereto.   |

## FIRST SCHEDULE

(Rule 2)

Rates of allowances to witnesses payable in Brunei in respect of criminal proceedings in —

(a) the High Court —

(i) Expert witness — for \$8.50 plus reasonable travelling expenses.  
each hour of attendance or part thereof

(ii) Other witnesses                      Such allowance plus reasonable travelling expenses as the Court may think fit, having due regard to the circumstances of the witnesses: Provided that such allowance shall not exceed \$25 per diem.

[Subsidiary]

(b) Courts of Magistrate's —

(i) Expert witness — for \$8.50 plus reasonable travelling expenses. each hour of attendance or part thereof

(ii) Other witnesses Such allowance plus reasonable travelling expenses as the Court may think fit, having due regard to the circumstances of the witnesses: Provided that such allowance shall not exceed \$10 per diem.

SECOND SCHEDULE

(Rule 3)

CERTIFICATE UNDER SECTION 385 OF THE CRIMINAL PROCEDURE CODE

I certify that ..... attended at the ..... Court to give evidence on ..... for ..... days, and\* (that, in accordance with the Rules, the sum allowable to him at \$..... per diem is \$.....)

\*delete when not applicable

I further certify that the following charges made by the said ..... in respect of his actual travelling expenses appear to me to be fair and reasonable.

Dated this ..... day of ..... 19.....

..... Magistrate

[Subsidiary]

**Rules under section 400 framing forms for particular proceedings**

S.44/59

**MAGISTRATES' COURTS (PLEADING GUILTY BY LETTER) RULES**

Citation

1. These rules may be cited as the Magistrates' Courts (Pleading Guilty by Letter) Rules.

Endorsement or accompanying instrument with summons

2. Every summons issued by a Court of a Magistrate in respect of any of the offences to which subsection (2) of section 183 of the Criminal Procedure Code applies, shall contain an endorsement or accompanying instrument, under the hand of such Magistrate, in the terms of the Schedule.

Cap. 7

**SCHEDULE**

**(Rule 2)**

If, in accordance with section 183(2) of the Criminal Procedure Code, you wish to plead guilty to the charge(s) set out in the accompanying summons you may do so by signing your name, or affixing your thumb print, in the space provided for that purpose.

If you plead guilty in writing, you need not attend Court and the case may be disposed of in your absence, subject, however, to the powers of the Court to summon you to attend Court if it thinks fit.

If you plead guilty in writing, you may return this completed form to the person who served the summons or you may send it addressed to the Court in time for the hearing or you may otherwise by letter addressed to the Court plead guilty.

In any event, you may state any circumstances which you may choose by way of excuse, and the Court will take them into consideration, in so far as they are not disputed by the prosecution.

If the Court decides to deal with the case in your absence, the undermentioned Statement of Facts will be read in Court. The prosecution will not be allowed to mention to the Court any additional facts, apart from your previous convictions (if any).

(Sgd.) .....

Magistrate

[Subsidiary]

I request the Court to proceed under section 183(2) of the Criminal Procedure Code in respect of the charge(s) set out in the accompanying summons.

The Statement of Facts is as follows —

(Sgd.) .....

Complainant

Designation .....

Rank .....

To the Magistrate:

I plead guilty to the charge(s) set out in the accompanying summons:

I wish to bring the following circumstances to the notice of the Court —

Date:

Name

Place

Signature/Thumbprint

} of Accused

Witness:

