



MONTSERRAT

CHAPTER 2.02

MAGISTRATE'S COURT ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws¹—

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SITTINGS OF COURT ORDERS – Section 10	181

¹ The Magistrate's Court (Validation) Act (No. 10 of 2014), which is not included in this edition, validates acts done by certain persons performing functions and duties as Clerk of the Magistrate's Court during periods ending 7 July 2014.



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CHAPTER 2.02
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CHAPTER 2.02

MAGISTRATE'S COURT ACT

*(Acts 5 of 1984, 2 of 1997, 8 of 1999, 9 of 2010, 9 of 2011
and 11 of 2012 and S.R.O. 6/2013)*

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE
MAGISTRATE'S COURT AND FOR MATTERS CONNECTED THEREWITH.

Commencement

[1 June 1990]

PART 1

PRELIMINARY

Short title

1. This Act may be cited as the Magistrate's Court Act.

Interpretation

2. In this Act, unless the context otherwise requires—

“**adult**” means a person who, in the opinion of the Magistrate, is of the age of sixteen years or upwards;

“**Bailiff**” means a bailiff appointed under section 12;

“**child**” means a person who, in the opinion of the Magistrate, is under the age of fourteen years and of sufficient age and capacity to commit crime;

“**civil proceedings**” mean all civil actions triable by a Magistrate and all proceedings in relation to the making of an order for the payment of any sums of money declared to be a civil debt as hereinafter mentioned or for the doing or abstaining from doing of any act or thing not enforceable by fine or imprisonment in the first instance as hereinafter mentioned;

“**Clerk**” means the Clerk of the Court appointed under section 12;

“**complaint**” means an allegation, whether or not in writing, made to a Justice of the Peace, the Magistrate or the Court, whether or not made on oath, that some person, known or unknown, has committed an offence;

“**conviction**” means any summary conviction on a complaint or an information and includes any order made by a Magistrate on any matter brought before him on complaint or information;

“**Court**” means the Magistrate’s Court;

“**fine**” includes a penalty and also includes any pecuniary forfeiture or pecuniary compensation or any sum of money or any costs payable under a conviction;

“**guardian**” in relation to a child includes any person who in the opinion of the Court having cognizance of any case in which a child is concerned has for the time being the charge of or control over such child;

“**imprisonment in the first instance**” means imprisonment imposed at the time of the making of a conviction or order;

“**indictable offence**” has the same meaning as in the Criminal Procedure Code; (*Substituted by Act 9 of 2010*)

“**information**” means a charge laid on oath and reduced to writing;

“**law in force in Montserrat**” includes common law which applies in Montserrat;

“**Magistrate**” means a person appointed as such under section 4 or a person appointed to act as such under section 6 or a Justice of the Peace exercising powers under section 8;

“**offence**” means any contravention of any law in force in Montserrat which is punishable or enforceable either on indictment or on summary conviction by fine, penalty or imprisonment;

“**parent**” includes the mother of and any person adjudged to be the putative father of a bastard child;

“**person**” includes a child, young person and an adult and also includes a body corporate;

“**police officer**”, means any member of the Police service and any local constable, and every other person lawfully authorised to discharge police duties; (*Amended by Acts 9 of 2011 and 11 of 2012*)

“**Rules**” means Rules made under section 152;

“**Rules of Court**” means Rules of Court made under section 103;

“**Training School**” means any reformatory, industrial or other school established under any law for the reformation, education and training of children and young persons;

“**young person**” means a person who in the opinion of the Magistrate is of the age of fourteen years and under the age of sixteen years.

The Magistrate’s Court

3. (1) The Court heretofore exercising summary jurisdiction under the Magistrate’s Code of Procedure Act shall continue, and shall be styled the Magistrate’s Court, and shall have and exercise within Montserrat the

jurisdiction and powers conferred by this Act and by any other law for the time being in force in Montserrat.

(2) The Court shall have and use, as occasion requires, a seal bearing such inscription as the Governor acting on the advice of Cabinet may approve, and until such seal is available, shall use a stamp bearing the words “**Magistrate’s Court, Montserrat**”, and such stamp shall be authenticated by the signature of the Magistrate or the Clerk.

(Amended by Act 9 of 2011)

(3) The seal of the Court, or the authenticated stamp, shall be judicially recognized.

Appointment of Magistrate

4. (1) There shall be a Chief Magistrate, a Senior Magistrate and a number of other Magistrates as may be required for the purposes of this Act.

(2) The Governor, acting after consultation with the Chief Justice, may appoint a Magistrate, upon terms and for a period as he thinks fit, to exercise the jurisdiction and powers of the Magistrate’s Court.

(3) No person shall be appointed as Magistrate unless he possesses qualifications as are required under section 70 of the Supreme Court Act, for admission as a barrister or a solicitor, and has been so qualified for not less than five years.

(Substituted by Act 11 of 2012)

Powers and duties of Magistrate

5. The Magistrate shall have and possess all the powers and jurisdiction and shall perform all the duties which are now vested in or imposed upon the Magistrate or any Justices of the Peace by virtue of any law in force in Montserrat.

Trial of cases during illness or absence of Magistrate

6. (1) In the event of the absence or illness of the Magistrate, or in any case where it appears to him to be expedient, the Governor, after consultation with the Chief Justice, may direct a fit and proper person to act for such Magistrate, and any such person while so acting for such Magistrate shall have the same powers and jurisdiction, and be entitled to the same immunities and protections as the Magistrate for whom he is acting has and is entitled to.

(2) A person may be appointed to act as Magistrate under subsection (1) notwithstanding that he may not be qualified for appointment as a substantive Magistrate.

Justices of the Peace

7. (1) The Magistrate shall be *ex officio* a Justice of the Peace for Montserrat.

(2) The Governor may, by warrant under his hand, appoint a fit and proper person to be a Justice of the Peace for Montserrat and may, in like manner, for such cause as may appear to him sufficient, remove any Justice of the Peace from his office.

(3) Every appointment or removal of a Justice of the Peace shall be notified in the *Gazette*.

(4) Any person in Montserrat who, on the date of commencement of this Act, was already duly appointed as a Justice of the Peace under the Magistrate's Code of Procedure Act, shall continue to hold such appointment and is deemed to have been appointed a Justice of the Peace in accordance with this section.

(5) The powers conferred upon the Governor by this section shall be exercised by him in his discretion, but after consultation with the Cabinet.

(Amended by Act 9 of 2011)

Trial of cases in which the Magistrate is interested

8. Any two Justices of the Peace, designated for the purpose by the Governor after consultation with the Chief Justice, may hear and determine any case in which the Magistrate is interested, and for such purpose any such Justices of the Peace shall have the same powers and jurisdiction, and be entitled to the same immunities and protections as the Magistrate had and is entitled to.

Salary of Magistrate and Acting Magistrate

9. The salary of the Magistrate and of any person appointed to act as Magistrate shall be such as may be prescribed by law and shall be charged on the Consolidated Fund:

Provided that, the salary of the Magistrate shall not be reduced during his tenure of office.

Sittings to be appointed by order

10. The Governor acting on the advice of Cabinet may by order appoint the places where and the times when sittings of the Magistrate's Court shall be held in Montserrat:

Provided that, the Magistrate, whenever there are special circumstances which in his opinion render it expedient that he should do so, may hold a special court at any place or time other than or in addition to those appointed by the Governor acting on the advice of Cabinet.

(Amended by Act 9 of 2011)

Adjournment of sittings in Magistrate's absence

11. When the Magistrate is unable to attend at any time appointed for the holding of a Magistrate's Court, the proceedings—

- (a) if civil may, subject to the Rules of Court, be adjourned by the magistrate by writing under his hand, for any period not exceeding one week.
- (b) if criminal, may be adjourned in accordance with the Criminal Procedure Code.

(Amended by Act 9 of 2010)

Premises, Clerks and Bailiffs

12. (1) The Governor acting on the advice of Cabinet shall provide premises for the holding of the Magistrate's Court. The Governor, acting after consultation with the Chief Justice, shall appoint a ¹Clerk of the Court and such other persons to act as officers and bailiffs of the Court as he shall think necessary, at such salaries as shall from time to time be voted by the Legislative Assembly.

(2) A bailiff appointed under subsection (1) may be required to give such security for the due performance of his duties as the Governor acting on the advice of Cabinet may direct.

(Amended by Act 9 of 2011)

Powers and duties of Justices of the Peace

13. Subject to section 8, all and singular, the powers and authorities heretofore vested in and exercised by Justices of the Peace under any law in force in Montserrat shall continue and may be exercised by such Justices, save and except the investigation and adjudication of charges and complaints, which shall be investigated and adjudicated upon by the Magistrate.

Action against Magistrate acting within his jurisdiction

14. Every action hereafter to be brought against the Magistrate for any act done by him in the execution of his duty as such Magistrate, with respect to any matter within his jurisdiction as the Magistrate, shall be in the nature of an action on the case as for a tort; and in the plaint it shall be expressly alleged that such act was done maliciously and without reasonable and probable cause; and if at the trial of any such action the plaintiff fails to prove such allegation he shall be nonsuit or a verdict shall be given for the defendant.

¹ Validation of any act done by Desiree D. Furlonge and Eveline D. Chambers in the performance or purported performance of their functions and duties as Clerk of the Magistrate's Court under the Magistrate's Court Act (Cap. 2.02) from 1 February 2006 and 1 April 2012 respectively to the commencement of this Act (7 July 2014). (Act No. 10.2014)

Action against Magistrate in other cases

15. For any act done by the Magistrate in a matter of which by law he has no jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any conviction or order made or warrant issued by the Magistrate in any such matter, may maintain an action against the Magistrate in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his plaint that the act complained of was done maliciously and without reasonable and probable cause:

Provided that, no action shall be brought for anything done under such conviction or order until after such conviction shall have been quashed; nor shall any such action be brought for anything done under any such warrant which shall have been issued by the Magistrate to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after such conviction or order shall have been so quashed as aforesaid; or if such last mentioned warrant shall not have been followed by any such conviction or order, or if it be a warrant upon an information for an alleged indictable offence, nevertheless, if a summons were issued previously to such warrant and such summons were served upon such person, either personally, or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear accordingly to the exigency of such summons, in such case, no such action may be maintained against the Magistrate for anything done under such warrant.

Action to be brought against convicting Magistrate

16. Where a conviction or order is made by the Magistrate, and a warrant of distress or commitment is granted thereon by some other Magistrate *bona fide* and without collusion no action shall be brought against the Magistrate who granted such warrant by reason of any defect in such conviction or order or for any want of jurisdiction in the Magistrate who made the same, but the action (if any) shall be brought against the Magistrate who made such conviction or order.

Mandamus to Magistrate refusing to act

17. If the Magistrate refuses to do any act relating to the duties of his office as such Magistrate, the party requiring such act to be done may apply to the High Court or to any Judge thereof, upon an affidavit of the facts, for a rule calling upon the Magistrate and also the party to be affected by such act, to show cause why such act should not be done; and if, after due service of such rule good cause shall not be shown against it, the High Court or any Judge thereof may make the same absolute with or without payment of costs as to such Court or Judge shall seem meet; and the Magistrate, upon being served with such rule absolute, shall obey the same, and shall do the act required, and no action or proceeding whatsoever shall be commenced or prosecuted against the Magistrate for having obeyed such rule and done such act thereby required as aforesaid.

Defect in conviction not to operate against Magistrate issuing process

18. In all cases where a warrant of distress or warrant of commitment is granted by the Magistrate upon any conviction or order, which either before or after the granting of such warrant has been or shall be confirmed upon appeal, no action shall be brought against the Magistrate who so granted such warrant for anything which may have been done under the same by reason of any defect in such conviction or order.

Judge may set aside proceedings in action

19. In all cases, where by this Act it is enacted that no action shall be brought under particular circumstances, if any such action shall be brought, a Judge of the High Court may, upon application of the defendant and upon an affidavit of facts, set aside the proceedings in such action, with or without costs, as to him shall seem meet.

Damages

20. In all cases where the plaintiff in any such action as aforesaid shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he proves that he was imprisoned under such conviction or order, and shall seek to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of four cents as damages for such imprisonment, or any costs of suit whatsoever if it shall be proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay.

Costs

21. If the plaintiff in any such action as aforesaid shall recover a verdict or the defendant shall allow judgment to pass against him by default, such plaintiff shall be entitled to costs, at the discretion of the Judge before whom the case is heard; or if in such case it be stated in the plaint that the act complained of was done maliciously and without reasonable and probable cause, the plaintiff, if he recovers a verdict for any damages, or if the defendant allows judgment to pass against him by default, shall be entitled to his full costs of suit, to be taxed as between attorney and client.

PART 2
JURISDICTION

Jurisdiction of the Magistrate's Court

22. The Magistrate's Court shall have jurisdiction—

- (a) subject to the Criminal Procedure Code, to exercise any power in respect of receiving complaints, informations or other process, or issuing warrants or other process for all offences;
- (b) subject to the Criminal Procedure Code—
 - (i) to try summarily any person charged with an offence triable summarily under the Criminal Code or any other law; and
 - (ii) to conduct any proceedings, other than trial, for all offences;
- (c) to make orders for the support, education or burial of illegitimate or abandoned children and for the support by their husbands of deserted wives and their children and in respect of such other matrimonial matters as are mentioned in Part 6;
- (d) to make orders for the doing or abstaining from doing of any act prescribed to be done or not to be done by any law for the time being in force in Montserrat where such law does not provide that failure to do or to refrain from doing such act may be enforced by fine or imprisonment in the first instance;
- (e) to hear and determine in a summary way, as hereafter this Act provided, all disputes between party and party touching any matter of debt, breach of contract, covenant or other undertaking, injury to the person or other matter in any case in which the debt, damages or balance sought to be recovered does not exceed \$10,000:

Provided that, the Court shall not have jurisdiction in suits for libel, slander, seduction or breach of promise of marriage;

- (f) to exercise such other powers and do such other acts not hereinbefore mentioned as may be prescribed or permitted to be done by the Magistrate or a Justice of the Peace by or under any law for the time being in force in Montserrat.

(Amended by Acts 8 of 1999 and 9 of 2010)

Offences committed on vessels within the waters of Montserrat

23. Where any person is alleged to have committed any offence punishable on summary conviction in or upon any ship, vessel or boat—

- (a) within the territorial waters of Montserrat; or
- (b) without the territorial waters of Montserrat and such ship, vessel or boat subsequently anchors in or comes within the waters of Montserrat,

proceedings in respect of such offence may be heard and determined by the Court, and any summons or warrant issued in respect of the commission or supposed commission of such offence may be served and executed, as the case may be on board such ship, vessel or boat while, or on any subsequent occasion when, such ship, vessel or boat is within the territorial waters of Montserrat.

Award of costs

24. At the conclusion of a summary trial, the Court may make an order for the payment of costs in accordance with section 224(2) of the Criminal Procedure Code.

(Substituted by Act 9 of 2010)

Costs awarded against defendant

25. Any sums awarded as costs against a defendant, under section 24, shall be specified in the record of the conviction drawn up by the Magistrate, and such costs if not sooner paid, shall be recoverable in the same manner as a fine adjudged to be paid on a conviction:

Provided that, the Magistrate, in his discretion, may allow time for the payment of any such costs.

Costs awarded against prosecutor

26. Any sum awarded against the prosecutor, under section 24, is deemed to be a judgment debt payable by the prosecutor to the defendant and, if not sooner paid, payment may be enforced by distress.

Compensation award to persons defrauded or injured

27. (1) Upon the summary conviction of any person for an offence, upon the application of any other person who suffered loss or injury as a result of that offence, the Magistrate may award any sum, not exceeding \$10,000, by way of satisfaction or compensation for such loss or injury, and the amount so awarded is deemed to be a judgment debt payable by the person so convicted to the person to whom it is so awarded, and if not sooner paid, may be enforced by distress.

(2) When any person has paid the whole amount of any award made against him under subsection (1), he shall be released from all further civil proceedings against him for the same cause.

(Amended by Act 8 of 1999)

Jurisdiction with respect to punishments, etc.

28. The powers of the Magistrate's Court in respect of sentencing and punishments are as stated in the Criminal Procedure Code.

(Substituted by Act 9 of 2010)

Jurisdiction in respect of children and young persons

29. (1) If a child or young person is charged with a summary offence, or an offence triable either way in which the mode of trial is determined under the Criminal Procedure Code to be summary trial, then, unless the child or young person is charged jointly with a person who is not a child or young person, the charge shall not be heard before the Magistrate's Court but shall be heard before a court established under the Juveniles Act, and the procedure at the hearing shall be in accordance with the provisions of that Act.

(2) If a child or young person is charged with an offence triable only summarily jointly with an adult, or the adult is charged at the same time with aiding, abetting, causing, procuring or permitting the offence, the charge against the child or young person shall be heard by the Magistrate's Court in accordance with the provisions of the Criminal Procedure Code.

(3) If a child or young person is charged with an indictable-only offence or an offence triable either way in which the mode of trial is determined under the Criminal Procedure Code to be on indictment, the procedure shall be in accordance with the Criminal Procedure Code.

(4) If a child or a young person is brought before the Magistrate's Court charged with any offence in a case which is not required to be heard before a Juvenile Court, the magistrate's court shall have in relation to that child or young person all the powers of a Juvenile Court established under the Juveniles Act.

(5) In this section, the following expressions have the same meaning as in section 2 of the Criminal Procedure Code—

“indictable-only offence”;

“offence triable either way”;

“offence triable only summarily”.

(Substituted by Act 9 of 2010)

PART 3

POWERS IN RESPECT OF YOUNG OFFENDERS

Restriction on punishment of children

30. Notwithstanding any provisions of this or any other Act, no child convicted by the Magistrate's Court or by a Juvenile Court shall be sentenced to imprisonment or to pay a fine exceeding \$50.

Fine, etc. to be paid by parent or guardian

31. (1) Where a child is charged with any offence for the commission of which a fine, damages or costs may be imposed and the Magistrate or a Juvenile Court is of opinion that the case would be best met by the imposition of a fine, damages or costs, whether with or without any other punishment, the Magistrate or a Juvenile Court shall order that the fine, damages or costs awarded be paid by the parent or guardian of the child instead of by the child, unless the Magistrate or a Juvenile Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent or guardian who, having been summoned to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Any sums imposed and ordered to be paid by a parent or guardian under this section may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child was charged.

Punishment of young persons

32. Notwithstanding any provisions of this or any other Act, a young person convicted by the Magistrate's Court or by a Juvenile Court shall not be sentenced to imprisonment for a term exceeding three months or to pay a fine exceeding \$200.

Sentence to period at Training School

33. Where a child or young person is convicted by the Magistrate's Court or by a Juvenile Court, such child or young person may be ordered to be sent to a Training School for such term, not exceeding three years or until the date at which he will attain the age of sixteen years, whichever is the shorter period, as the Court may direct.

Other methods of dealing with convicted child or young person

34. Where a child or young person is convicted by the Magistrate's Court or a Juvenile Court, the Magistrate, if he thinks it inexpedient to inflict any punishment, may discharge the accused.

PART 4

PROCEDURE FOR ENFORCING PAYMENT OF FINES, ETC.

Issue of warrant of distress

35. Subject to section 233 of the Criminal Procedure Code, where, upon recording a conviction by which any sum (including any costs) is adjudged to be paid, the Magistrate may issue a warrant of distress for the levying of the same, and such warrant shall be under his hand and the seal of the Court. (*Amended by Act 9 of 2010*)

Execution to cease on payment of amount leviable

36. In all cases where a warrant of distress has been issued against any person and such person pays or tenders to the officer having the execution of the same the sum or sums in the warrant mentioned together with the amount of the expenses of the distress up to the time of payment or tender the officer shall cease to execute the same.

When distress warrant issued defendant may be left at large or detained in custody

37. In all cases where a Magistrate issues a warrant of distress he may suffer the defendant to go at large or verbally or by a written warrant in that behalf may order him to be kept in safe custody until return has been made to the warrant of distress unless the defendant gives sufficient security by recognizance or otherwise to the satisfaction of the Magistrate for his appearance before him at the time and place appointed for the return of the warrant of distress.

Magistrate may commit defendant where no goods to levy

38. If at the time and place appointed for the return of any warrant of distress the officer who has execution of the same returns that he could find no goods or chattels whereon to levy, the Magistrate may issue his warrant of commitment directed to the same or any other officer reciting shortly the conviction, the issuing of the distress warrant and the return thereto, and requiring the officer to convey the defendant to prison and there to deliver him to the Superintendent of Prisons thereof requiring the Superintendent to receive the prisoner into such prison and there to imprison him in the manner and for the time prescribed by section 43, unless and until the sum or sums adjudged to be paid and all costs and charges of the distress and also all costs and charges of the commitment if the Magistrate thinks fit so

to order (the amount thereof being ascertained and stated in such commitment) be paid.

Defendant who pays after commitment to be discharged

39. In all cases in which any person is imprisoned for non-payment of any fine he may pay or cause to be paid to the Superintendent of the prison in which he is confined the sum or sums in the warrant of commitment mentioned together with the amount of the costs, charges and expenses therein mentioned and the Superintendent shall receive the same and shall thereupon discharge the prisoner if he be in his custody for no other matter.

On default of payment of any instalment process to issue for the whole sum

40. Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment forthwith of the full amount of the fine or of such amount as remains unpaid.

Mode of payment by instalments

41. A Magistrate directing the payment of a sum or of an instalment of a sum may direct such payment to be made at such time or times, and in such place or places and to such person or persons as may be specified by the Magistrate; and every person to whom any such sum or instalment is paid, when not the Clerk, shall as soon as may be accounted for such sum or instalment to the Magistrate or to the Clerk, and pay over the same into the Public Treasury or, if the Magistrate shall so direct, to the Magistrate or to the Clerk.

Power to postpone issue of warrant of distress or commitment

42. A Magistrate to whom application is made either to issue a warrant of distress or for any endorsement thereon for any sum adjudged to be paid by a conviction or order or to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by a conviction, or for default of sufficient distress to satisfy any such sum, may, if he considers it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to him seem just.

Scale of imprisonment in default of payment of fine or of sufficient distress

43. The period of imprisonment imposed by the Magistrate under this or any other Act in respect of the non-payment of any sum of money adjudged to be paid on a conviction or in respect of the default of a sufficient distress to satisfy any such sum, or in respect of the default of payment of any instalment of such sum, shall, notwithstanding any enactment to the contrary, be such period as in his opinion will satisfy the justice of the case,

but shall not in any case exceed the maximum fixed by the following scale—

<i>Where the amount of the sum or sums of money adjudged to be paid—</i>	<i>The said period shall not exceed</i>
Does not exceed \$100	seven days
Exceeds \$100 but does not exceed \$500 ...	fourteen days
“ \$500 “ “ “ “ \$1,000	thirty days
“ \$1,000 “ “ “ “ \$2,000 ..	two months
“ \$2,000 “ “ “ “ \$3,000 ..	three months
Over \$3,000	six months

(Amended by Act 8 of 1999)

On part payment term of imprisonment to be reduced

44. Where it has become necessary to issue a warrant for committing a person to prison for non-payment of a sum adjudged to be paid by a conviction, or for default of sufficient distress to satisfy any such sum, and it appears to the Magistrate that, either by payment of part of the said sum, whether in the shape in instalments or otherwise, or by the net proceeds of the distress, the amount of the sum so adjudged has been reduced, the Magistrate shall, by his warrant of commitment, revoke the term of imprisonment to which the defendant is liable under such conviction, and order the defendant to be imprisoned for such less period as in his opinion will satisfy the justice of the case.

Power to order attachment of debts due to person sentenced to pay a fine

45. Where any person has been summarily convicted and has been sentenced to pay a fine and it shall be shown to the Court that there is any sum of money in the hands of a third person which is due and payable by such third person to the person so convicted as aforesaid, the Magistrate may order such third person to pay such sum of money, or such part thereof as will be sufficient to satisfy such fine as aforesaid, to such person or persons as would be by law entitled to receive payment of such fine in such manner and form as a garnishee may be compelled to pay over money in his hands for the satisfaction of a judgment debt under any law for the time being in force in that behalf and the Court shall have the same powers as are given to the Court under such law.

Where more than one person is ordered to pay a sum equal to the damage done

46. When several persons join in the commission of the same offence and upon conviction thereof each is adjudged to forfeit a sum equivalent to the value of the property or to the amount of the injury done no further sum

shall be paid to the party aggrieved than the amount forfeited by one of such offenders only and the corresponding sum forfeited by the other offender shall be applied in the same manner as other penalties imposed by the Court are directed to be applied.

PART 5

RECORD OF SUMMARY CONVICTIONS

Record of convictions to be transmitted to Court of Appeal

47. (1) Without prejudice to Part 30 of the Criminal Procedure Code (relating to appeals from the Magistrate's Court to the Court of Appeal), the Magistrate shall, as soon as possible after any person has been convicted summarily, transmit to the Court of Appeal the record of such conviction, certified under the hand of the Magistrate and the seal of the Court, there to be kept by the proper officer among the records of the Court of Appeal. *(Amended by Act 9 of 2010)*

(2) Upon any legal proceedings, whether civil or criminal, against any person, a copy of such conviction certified by the proper officer of the Court of Appeal, or proved to be a true copy by evidence on oath, shall be sufficient evidence to prove the conviction to which it relates, and such conviction shall be presumed not to have been quashed, set aside or altered on appeal until the contrary is proved.

PART 6

MATRIMONIAL AND AFFILIATION JURISDICTION

Orders relating to separation and maintenance

48. (1) Any married person (in this section hereinafter called "**the applicant**") whose husband or wife, as the case may be, (in this section hereinafter called "**the defendant**")—

- (a) has been guilty of adultery;
- (b) has deserted the applicant;
- (c) has been convicted summarily of an aggravated assault on the applicant within the meaning of section 210 of the Penal Code;
- (d) has been convicted on indictment of an assault upon the applicant;
- (e) has been guilty of persistent cruelty to the applicant or to the children of the applicant;
- (f) being under a duty to provide reasonable maintenance for the applicant and the children of the applicant, has wilfully neglected or refused to do so; or

(g) is a habitual drunkard,

may apply to the Court for an order under this Part.

(2) Any married person whose spouse—

(a) has compelled him or her to submit to prostitution; or

(b) while suffering from venereal disease, and knowing that he or she was so suffering, has insisted on having sexual intercourse with the other,

may also apply to the Court for an order under this Part.

(3) For the purposes of this section—

(a) where the husband has, in the opinion of the Court, been guilty of such conduct as was likely to result and has resulted in his wife submitting herself to prostitution he is deemed to have compelled her so to submit herself;

(b) a person who, by reason of habitual intemperate drinking of intoxicating liquors or habitual taking or using (except on medical advice) of dangerous drugs within the meaning of the Drugs (Prevention of Misuse) Act, is at times dangerous to himself or herself or to others or incapable of managing himself or herself or his or her affairs, is deemed to be a habitual drunkard; and

(c) where the applicant is entitled to apply for an order or orders under this section on the ground of the conviction of the defendant upon indictment, the applicant may apply to the High Court before which the defendant has been convicted, and the High Court shall for the purposes of this section exercise the jurisdiction of the Magistrate's Court and have the power without a jury to hear an application and make the order or orders applied for.

(4) The Magistrate's Court, upon any application under this section, may make an order or orders containing all or any of the provisions following, namely—

(a) that the applicant be no longer bound to cohabit with the defendant (which provision while in force shall have the effect of a decree of judicial separation on the ground of cruelty);

(b) that the legal custody of any children of the marriage while under the age of sixteen years be committed to the applicant;

(c) that the defendant shall pay to the applicant personally, or for the use of the applicant to any officer of the Court or third person on behalf of the applicant, such weekly sum not exceeding \$200, as the Court, having regard to the means both of the applicant and the defendant, considers reasonable:

Provided that, where the defendant is the wife of the applicant, the Court shall not make an order containing the provisions of this paragraph unless it is satisfied that the applicant is not possessed of sufficient means to provide reasonable maintenance for himself or that the applicant is by reason of old age, illness or physical or mental disability unable to provide for his own maintenance;

- (d) that the defendant pay to the applicant or to an officer of the Court or a third person on behalf of the applicant, such weekly sum not exceeding \$200, as the Court, having regard to all the circumstances including the means of the defendant and the applicant, thinks reasonable for the maintenance of each child of the marriage until each such child attains the age of eighteen years or has entered into full time employment;
- (e) for payment by the applicant or defendant, as the case may be, or both of them, of the costs of the application and any reasonable costs of either of the parties as the Court may think fit.

(5) No order shall be made under subsection (4)(c) where it is proved that the applicant has committed an act of adultery:

Provided that the defendant has not condoned, or connived at, or by his or her wilful neglect conduced to such act of adultery.

(6) The Court may on the application of the wife or husband, and upon cause being shown upon fresh evidence to the satisfaction of the Magistrate, at any time alter, vary or discharge any such order and may upon such application from time to time increase or diminish the amount of any weekly payment ordered to be made:

Provided that, the amount payable by any such order shall not be increased beyond the limits set forth in subsection (4).

(7) If any person on whose application an order has been made under this section shall voluntarily resume cohabitation with her husband or his wife, as the case may be, or shall commit an act of adultery, such order shall on proof thereof be discharged:

Provided that, the Magistrate may, if he thinks fit—

- (i) refuse to discharge such order in the case of a wife who has committed adultery if in his opinion such act of adultery was conducted to by the failure of the husband to make such payments as in his opinion he was able to make under the order;
- (ii) in the event of the order being discharged, make a new order that the defendant shall pay to the applicant, or to an officer of the Court or a third person on behalf of the applicant, such weekly sum not exceeding \$200, as the

Court, having regard to all the circumstances including the means of the defendant and the applicant, thinks reasonable for the maintenance of each of the children of the marriage until each such child attains the age of eighteen years or has entered into full time employment.

(8) No order made under this section shall be enforceable and no liability shall accrue under any such order while the applicant with respect to whom the order was made resides with the defendant and any such order shall cease to have effect if for a period of three months after it is made such applicant continues to reside with the defendant.

(9) In this section the term “**children of the marriage**” shall include every child whom the applicant or defendant is liable under any law to maintain and who has been living with them as part of the husband’s family.

(Amended by Act 2 of 1997)

Procedure on applications and enforcements of orders

49. (1) All applications under section 48 shall be made in like manner as a complaint.

(2) If in the opinion of the Magistrate the matters in question between the parties or any of them may be more conveniently dealt with by the High Court, he may refuse to make an order under section 48 and in that case no appeal shall lie from his decision:

Provided that, the High Court or a Judge thereof may, by order in any proceeding in that Court relating to or comprising the same subject matter as the application so refused, or any part thereof, direct the Magistrate to re-hear and determine the matter.

(3) The payment of any sum of money directed to be paid by any order made under section 48 may be enforced in the like manner as though such order were a conviction and the provisions of this Act shall apply in all respects as fully as though such order as aforesaid were a conviction.

Enforcement of orders as to custody of children

50. Where an order under section 48 contains a provision committing to the applicant the legal custody of any children of the marriage, a copy of the order may be served on any person in whose actual custody the children may for the time being be, and thereupon if within seven days of such service the person makes default in handing over to the applicant the custody of such children, the Court may in its discretion order the person so making default to pay to the applicant a sum (to be enforced as a civil debt recoverable summarily under this Act) not exceeding \$100 for every day during which he is in default, or to be imprisoned until he has remedied his default:

Provided that, a person shall not for such default, whether it be made in respect of one or more orders, be liable under this section to be

imprisoned for a period or periods amounting in the aggregate to more than two months, or to payment of any sums exceeding in the aggregate \$400.

Interim orders

51. Where on the hearing of any application for a maintenance order the application is adjourned for any period exceeding fourteen days, the Court may order that the defendant pay to the person in respect of whom the order is sought to be made, or to an officer of the Court or a third person on behalf of such person, a weekly sum, not exceeding the sum which might be ordered to be paid under a final order, which interim order shall be enforced in like manner as if it were a final order of the Court:

Provided that, an interim order directing such payment shall not remain in operation for more than three months after the order was made.

Affiliation proceedings

52. Any single woman who is with child, or who is delivered of a child, may either before the birth or at any time within twelve months from the birth of such a child, or at any time thereafter upon proof that the man alleged to be the father of such child has within the twelve months next after the birth of such child paid money for its maintenance or otherwise, assisted to provide for its support, or at any time within the twelve months next after the return to Montserrat of the man alleged to be the father of such child, upon proof that he ceased to reside in Montserrat within twelve months next after the birth of such child, make application to the Magistrate for a summons to be served on the man alleged by her to be the father of the child; and if such application be made before the birth of the child, the woman shall make a deposition upon oath stating who is the father of such child, and the Magistrate shall upon such application being made issue his summons to the person alleged to be the father of such child to appear before the Magistrate's Court and to show cause why he should not be compelled to maintain such child.

Order on putative father for maintenance of child

53. On the appearance of the person so summoned or on proof that the summons was duly served, the Court shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the Magistrate, the Court may adjudge the man to be the putative father of the child, and make an order on him for the payment to the mother of the illegitimate child, or to any person having custody of the child or into Court such weekly **sum not exceeding** \$200 as the Court, having regard to the means of the defendant and the applicant thinks reasonable for the maintenance and education of the child, and further of a sum for the expenses incidental to the birth of such child, and of the funeral expenses of the child, if it has died before the making of such order, and of such costs as may have been incurred in the

obtaining of such order and the Court shall have power from time to time to discharge or vary the same on the application of either the putative father or the mother of such child upon proof that the means of the putative father have been altered in amount since the original order or any subsequent order varying it shall have been made.

(Amended by Act 2 of 1997)

Enforcement of order on putative father

54. (1) If an application under section 52 is made before the birth of the child or within two calendar months after the birth of the child, the Court may order the payment of the weekly sum to be made from the birth of the child; and if at any time after the making of such order it is made to appear to the Court by evidence upon oath, that any sum payable pursuant to such order is one month in arrear, the Court may proceed to enforce such order in like manner as if such order were a conviction, and the provisions of this Act shall apply in all respects as fully as though such order were a conviction:

Provided that, where any weekly sum payable pursuant to such order is in arrears as aforesaid the Court shall not proceed to enforce such order as provided in this section unless satisfied that the defendant is possessed of sufficient means to pay such arrears in whole or in part.

(2) Where in any proceedings for the enforcement of such order the defendant is committed to prison then, unless the Court otherwise directs, no arrears shall accrue under the order during the time that the defendant is in prison.

Duration of order on putative father

55. An order for the maintenance and education of a child made under this Act shall, except for the purpose of recovering money previously owed, be of no effect if the child in respect of whom the order was made has attained the age of eighteen years, or has entered into full time employment or has died.

(Amended by Act 2 of 1997)

Forms and procedure

56. The forms to be used and the proceedings to be had under this Part shall, as nearly as may be, be those used and had in the case of a person charged with having committed an offence punishable summarily by fine or imprisonment.

Service of summonses, notices and orders

57. Every summons, notice or order to be served on any person under this Part may either be served personally or may be served by leaving the same at the last known place of abode of the person to be served; and such

service shall be effected not less than six clear days before the day on which such person is required to appear before the Court.

Payment of money under an order for the maintenance and education of child

58. (1) Except as is otherwise provided by any law and subject to the provisions of this section, all money payable under any order made under section 53 shall be due and payable to the mother of the child in respect of such time and so long as she lives and is of sound mind and is not in prison.

(2) After the death of the mother of a child, or while such mother is of unsound mind or confined in any prison, the Court may make an order from time to time appointing some person who with his own consent shall have the custody of such child; and the Court may revoke the appointment of such person and may appoint another person in his stead. Every person so appointed to have the custody of a child may make application for the benefit of such child in the same manner as the mother of the child could have done.

(3) The Court may order any money payable under any such order to be paid to the person appointed by the Governor acting on the advice of Cabinet under section 60, and to be applied in such manner as shall be directed by the Court.

(Amended by Act 9 of 2011)

Putative father to show cause why order should not issue where neglect is alleged

59. On the hearing of any charge of wilfully neglecting to provide adequate food, clothing, medical aid or lodging for any child under the age of eighteen, the Court may direct that any person may be summoned to appear before it to show cause why an order should not be made upon him as father or putative father for the support of such child, and may after hearing any person so summoned, or if such person does not appear, on proof of the service of the summons make such order as it may think fit in the matter, and may enforce the same in like manner as if the order were a conviction and the provisions of this Act shall apply in all respects as fully as though such order were a conviction.

(Amended by Act 2 of 1997)

Father of child may be compelled to support it, if the mother fails to take proceedings

60. Where the mother of a child has not acted in accordance with section 52, any person whom the Governor acting on the advice of Cabinet may appoint in that behalf may take all steps in and about the compelling of the putative father of such child to contribute to its support which the mother of such child would be entitled to take under this Act. *(Amended by Act 9 of 2011)*

Garnishment of wages

61. (1) Where, under sections 48(4)(c), 48(4)(d), 48(7)(ii), 51 and 53 a person is ordered by the Court to make a payment to another party or on that party's behalf, the Court may instruct the person's employer to garnish the wages of the person against whom the order is made.

(2) The Court may instruct the employer to pay the amount deducted into the Office of the Court or to the person to whom payment is ordered.

(Inserted by Act 11 of 2012)

PART 7

CIVIL JURISDICTION

Parties in civil proceedings

62. In all civil proceedings under this Part, the party making a claim shall be called the plaintiff and the party against whom a claim is made shall be called the defendant, and each party shall be competent to give evidence on oath in any such proceedings to which he is a party.

General jurisdiction

63. (1) Subject to the provisions of this Act, the Court shall have jurisdiction to hear and determine all disputes and differences between party and party touching any matter of debt, breach of contract or covenant, injury or other tort in any case in which the debt, damages, balance or other sum sought to be recovered does not exceed \$10,000:

Provided that, the Court shall not have jurisdiction in respect of suits for libel, slander, seduction or breach of promise of marriage.

(2) The Court shall have jurisdiction in equity, and where there is conflict between law and equity the rules of equity shall prevail.

(Amended by Act 8 of 1999)

Trespass and title to land

64. (1) The Court shall have jurisdiction in actions of trespass or title to real property in any case in which the damages claimed or the value of the property claimed does not exceed \$2,000.

(2) In any case in which the defendant disputes the value of any real property, the Court, before entering into the case, may make such enquiries and hear such evidence as the Magistrate considers necessary to establish the value thereof, and the value so ascertained shall be conclusive for the purposes of ascertaining if the Court has jurisdiction in the case under subsection (1).

Survey of disputed boundary

65. (1) If it appears to the Court that, for the purpose of avoiding or preventing trespass or of establishing whether a trespass has been committed, or the extent of the trespass, or for the proper determination of any issue in any proceedings, it is necessary or desirable that the position of any boundary, or of any point on any boundary should be ascertained and shown on a plan, the Court may give such directions as may be necessary for such boundary or point to be ascertained by a land surveyor and reproduced on a plan for the information of the Court.

(2) The expenses of a survey carried out under subsection (1) shall form part of the costs in the action and shall be divided equally between the parties thereto, each of whom shall deposit with the Clerk his proportionate share of the estimated cost of the survey before the survey is commenced.

(3) The expenses referred to in subsection (2) shall be deposited with the Clerk by the parties within thirty days from the date of the order of the Court, and if the plaintiff defaults in depositing his share within the prescribed period the action shall be dismissed:

Provided that, the Court, on application made by the plaintiff, and payment by him of his share of the expenses within twenty one days after the action has been dismissed, may restore the action to the list for hearing upon such terms as to costs or otherwise as appear to the Court to be just and equitable.

(4) Where the defendant defaults in depositing his share of the expenses referred to in subsection (2), if the plaintiff is willing himself to deposit the whole amount of such expenses, the Court, after giving notice of the fact to the defendant, may permit the plaintiff to deposit the whole amount, and if the defendant is successful in the action he shall not be entitled to the costs thereof.

(5) A plan prepared under this section shall be lodged with the Clerk, and the parties to the action shall be entitled to examine it and may require that the surveyor be called as a witness and examined with regard to the plan or any issue arising on the making thereof.

Transfer of proceedings to High Court

66. If the Court on any special grounds is of the opinion that any suit instituted in the Court, although within the jurisdiction of the Court under this Part, ought to be tried in the High Court, the Court may order that the suit be transferred to the High Court; and thereupon the Clerk shall annex to the writ of summons an office copy of such order and shall transmit the same, together with any documents filed in the cause, to the High Court; and the plaintiff shall within fifteen days of such order, file his plaint in the High Court and the case shall proceed as if the same had originated there. The costs of the proceedings in the Court below shall be costs in the case.

Penalty for instituting proceedings unnecessarily in the High Court

67. In any proceedings instituted in the High Court, if the sum recovered and the subject matter of the suit is within the jurisdiction of the Magistrate's Court, the plaintiff shall pay the entire costs of the suit unless the Magistrate has certified that the suit was a fit and proper one to be instituted in the High Court or unless the same was ordered to be transferred to the High Court under section 66:

Provided that, this section shall not apply to suits for un-liquidated damages unless the amount recovered does not exceed \$750.

PART 8

PRACTICE AND PROCEDURE IN CIVIL PROCEEDINGS

Institution of suits

68. (1) All suits under Part 7 shall be commenced by a writ of summons, in the prescribed form or as near thereto as circumstances permit, and the said writ shall contain the particulars required by the said form and each such writ shall be numbered consecutively in each year by the Clerk.

(2) A writ issued under subsection (1) shall be served not less than six days before the defendant is required to appear, where the defendant is resident in Montserrat, or, where the defendant is not resident in Montserrat, not less than twenty one days before the defendant is required to appear.

(3) Where service of the writ is not effected within the time prescribed by subsection (2), the suit shall not abate but the service shall be good for the next sitting of the Court for the hearing of suits under this Part.

Service of process

69. The service of writs, orders and other documents shall be effected by the Bailiff by delivering a copy of the document to be served to the defendant or other person to be served, or to his attorney or by leaving the same at the usual or last known place of abode or business of the defendant, or other party to be served, with a proper person for the delivery thereof to such party:

Provided that, if any difficulty arises in effecting service in any particular case, the Court, on application made by the plaintiff, may give directions as the method of service to be employed.

Summary hearing

70. It shall not be necessary for the defendant to enter an appearance to a writ issued under this Part, after the service thereof, and the suit shall be heard and determined in a summary way without written pleadings:

Provided that, the Court, whether of its own volition or upon application made by the defendant, may order the plaintiff to furnish further and better particulars of his claim or to file, within such time as the Court may direct, a written statement thereof; and the Court may likewise within such time order the defendant to file a written answer to such statement.

Notice of special defence

71. Except by consent of the parties or by leave of the Court, the defendant shall not raise any special defence such as “set-off”, “illegality”, “want of consideration” or “limitation of time for the suit” unless at least twenty four hours written notice thereof has been given to the plaintiff or his attorney, and, where set-off is pleaded, the defendant shall serve the plaintiff with a copy of the account or contra demand intended to be set-off, and in such case no evidence shall be allowed in proof of any demand or item not included in the particulars of the set-off claimed which have been given to the plaintiff.

Non-appearance of party

72. If the plaintiff fails to appear at the hearing of the suit, the Court, in its discretion, may either enter judgment of nonsuit or adjourn the hearing. If the defendant fails to appear and it is proved to the satisfaction of the Court that the writ was duly served, the Court may proceed to hear and determine the case *ex parte* or may adjourn the same:

Provided that, where judgment is given for the plaintiff in the absence of the defendant, the Court, in its discretion, upon the application of the defendant and upon being satisfied that there was, and still is, a *prima facie* valid defence to the action on its merits and that there has been no delay on the part of the defendant in making such application, may set aside the judgment and rehear the case.

Proceedings not to be set aside for want of form

73. (1) No suit, or proceeding therein, shall be held to be invalid or subject to being set aside on account of any verbal or technical error; but all errors and mistakes may be altered or amended by the Court, in its discretion.

(2) Any applications to the Court which may be necessary in the course of or at any stage of any suit may be made orally and without preliminary formality.

Executors, minors, etc. may sue and be sued

74. (1) Any administrator or executor may sue or be sued in the Court, and the judgment and any execution shall be such as, in the like case, would be given or issued in the High Court.

(2) Notwithstanding that he is under the age of twenty one years, any person may sue for wages due or payment for any work as a servant in the same manner as if he were of full age.

Claims not to be split to bring them within the jurisdiction of the Court

75. No cause of action, which exists at any one time, which amounts in the whole to a claim exceeding \$10,000, shall be split or so divided as to be made the ground of two or more different actions, in respect of the same or substantially the same matter or issue, in order to bring such cause within the jurisdiction of the Court. If the Court finds that the plaintiff in any case has split his cause of action as aforesaid, the Court shall dismiss the action in that case, without prejudice, however to the plaintiff's right to sue upon the same cause of action in such manner as he may be advised in any other court:

Provided that, if the plaintiff is satisfied to recover a sum not exceeding \$10,000, then the Court may entertain the action and, if any order or judgment is given in favour of the plaintiff, the same shall be expressed to be, and shall be for all purposes, in full discharge of the whole cause of action.

(Amended by Act 8 of 1999)

Set-off and cross-suit

76. (1) Mutual debts and liquidated demands may be set-off against each other; and, where a defendant raises a defence by way of set-off, which in the opinion of the Court, is not admissible as set-off, the Court may, either before or at the hearing, on his application, give him liberty to withdraw such defence and to bring a cross-suit, together or otherwise, on such terms, as to costs and other matters, as seems just.

(2) Where in any action a set-off or counter claim is established as a defence against the plaintiff's claim, the Court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

Specific delivery of chattels

77. The Court may, if it sees fit to do so, upon the application of the plaintiff in an action for detention of any chattel, order the return of the chattel detained without giving the defendant the option of paying the values assessed or otherwise agreed upon; and if the defendant refuses to comply with such order, the Court may order him to be imprisoned, unless he earlier complies with the order to return the chattel, for any term, not exceeding three months, and may also direct execution to issue against his goods and chattels for the amount of such assessed or agreed value as aforesaid, and for the costs awarded.

Reference in matters of account

78. Whenever any action or proceeding before the Court involves, or consists wholly or partly of, matters which cannot conveniently be investigated in the ordinary way, the Court, with the consent of the parties, may refer such matter to any competent person as a referee for a report thereon, and may, from time to time, remit such report to the referee for reconsideration, and may determine the action or proceeding before the Court in accordance with such report or not, as shall seem just and equitable. The Court may award any sum which appears just and sufficient, under the circumstances, by way of remuneration to the referee, and such sum shall be costs in the cause, and shall be paid by such party, and at such times, as the Court may order, and the payment thereof may be enforced in the same manner as the payment of costs.

Relief from adverse claims

79. Where, in any suit, the defendant claims no interest in the money claimed or other subject matter thereof, but the right thereto is claimed by, or supposed to belong to, a third party, and the defendant is ready to pay the money claimed into Court, or dispose of the subject matter of the suit as the Court shall order, the Court may, on the application of the defendant, and on being satisfied that there is no collusion between him and such third party, order such third party to appear before the Court to state the nature of his claim and to maintain or relinquish the same, and, if he maintains it, the Court may order him to be made a defendant in the suit in lieu of, or in addition to, the original defendant and may dispose of the question in a summary manner.

Production of documents, etc.

80. The Court may, in any proceeding, order any party or any witness to produce before it any books, papers and documents in his possession, custody or control, the production of which shall appear necessary for the proper determination of the matter in dispute.

Evidence by books of account and affidavits

81. The Court, in its discretion, may permit any party to use his books of account as evidence in support of his claim or defence, and may also take and admit evidence by affidavit, whenever a special ground for receiving the same shall be shown to the satisfaction of the Court by the party tendering it.

Security for costs

82. The Court may, if it considers fit, require a plaintiff who may be out of Montserrat, either at the commencement of any suit, or at any time during the progress thereof, to give security for costs to the satisfaction of the Court, by deposit or otherwise, and may stay proceedings until such security be given.

Attachment of goods before judgment

83. If it shall be shown to the satisfaction of the Court that the defendant, with intent to obstruct, deny or delay the execution of any judgment which may be passed against him, is about to remove any of his goods, chattels or effects out of Montserrat, the Court may, on the application of the plaintiff, order that the goods, chattels and effects of the defendant, or any part thereof, be forthwith attached and taken into the hands of the Bailiff as a pledge or surety to answer the just demands of the plaintiff, until the trial of such suit and judgment thereon:

Provided that, the Court may at any time, upon reasonable cause being shown, and upon such terms, if any, as to security or otherwise as may seem just, remove the said attachment and order the property seized to be returned.

Compensation for needless attachment

84. (1) If it shall appear to the Court that the attachment of the property of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed, or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may, on the application of the defendant, award against the plaintiff such amount, not exceeding \$2,000, as it may consider a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property.

(2) An award of compensation under this section shall bar any suit for damages in respect of such attachment.

Court may refer issues to arbitration

85. (1) The Court may, in any cause with the consent of both parties to the action, with or without other matters within the jurisdiction of the Court and in dispute between such parties, order the same to be referred to arbitration to such person or persons and in such manner and on such terms as it shall think reasonable and just; and such reference shall not be revocable by either party, except with the consent of the Court; and the award of the arbitrators shall be entered as the judgment in the cause, and shall be as binding and effectual to all intents and purposes as if given by the Court:

Provided that, the Court may, if it shall think fit, on application to it by either of the parties at the first session of the Court held after the expiration of one week after the entry of such award, set aside any such award so given as aforesaid or, with the consent of both parties, revoke the reference or order another reference to be made in the manner aforesaid.

(2) An arbitrator appointed under subsection (1) may administer an oath to any witness called at the arbitration proceedings.

Non-suit

86. The Court shall have power to non-suit the plaintiff in every case in which satisfactory proof has not been given entitling either the plaintiff or the defendant to the judgement of the Court.

PART 9

JUDGEMENT AND CONSEQUENTIAL MATTERS IN CIVIL PROCEEDINGS

Entry of judgment

87. Every decree or order of the Court shall be entered up in a minute book by the Clerk, and such entry or minute shall have the full force and effect of a formal decree or order, but the Court may direct a formal decree or order to be drawn up on the application of either party.

Judgment by admission or consent of parties

88. (1) Judgment by admission or by consent of parties may be entered at any time, and in every such case a memorandum of such admission or consent and of the particulars of the judgment to be entered shall be signed by the parties or their solicitors in the presence of the Clerk and filed in Court.

(2) When judgment by admission or by consent of parties is entered under this section, the plaintiff shall recover his costs of suit according to the scale of fees prescribed by this Act, unless otherwise agreed between the parties.

Payment by instalments

89. (1) The Court, with the consent of the parties, may direct that money payable under any decree or order may be paid by instalments, with or without interest.

(2) Where a decree or order directs payment of money by instalments, execution shall not issue until after default in payment of some instalment; and execution, or successive executions, may then issue for the whole of the money and costs then remaining unpaid, or such portion thereof as the Court may order either in the original decree or order or at any subsequent time.

Enforcement of decree for payment of money

90. In each and every case when the Court has made any decree or order, the party in whose favour such decree or order for the payment of money is made may apply to the Clerk for the issue of a writ or writs of execution directed to the Bailiff, who is thereby authorised and empowered to levy the amount thereof on the goods, chattels and effects of the judgment

debtor. Any writ shall be in the prescribed form unless in any special case the Clerk shall otherwise decide.

Mode of execution

91. (1) A writ of execution shall be executed by the Bailiff, in the presence of a police officer, after sunrise and before sunset, and in the manner provided in subsection (2).

(2) The Bailiff shall in the first instance, if practicable, seize, take and levy upon the goods and chattels of the judgment debtor (except his wearing apparel excluding any jewellery and bedding and that of his family and (to the value of \$1,000) the tools and implements of his trade) and shall also seize and take any money or bank notes and any cheques, bills of exchange, promissory notes, bonds, specialties or guarantees for money belonging to the judgment debtor, and shall hold the same as a security for the amount directed to be levied by such execution, or so much thereof as has not been levied or raised for the benefit of the judgment creditor; and the judgment creditor may sue in the name of the judgment debtor, or in the name of any person in whose name the judgment debtor might have sued, for the recovery of the sum or sums secured or made payable thereby, when the time of payment thereof arrives.

Return of writ

92. The Bailiff shall forthwith return the writ into Court with an endorsement thereon setting forth the place, time and mode of execution thereof.

Mode of sale

93. The Court shall in every case have power by special order to regulate the sale of any property taken in execution under a decree or order of the Court.

Judgment debtor summons

94. Where a judgment remains wholly or in part unsatisfied (whether a writ of execution has issued or not) the judgment creditor may apply to the Court for a summons requiring the judgment debtor to appear and be examined respecting his ability to make the payment directed, and the Court shall, unless it sees good reason to the contrary, issue such summons. On the appearance of the judgment debtor, he may be examined on oath by or on behalf of the judgment creditor and by the Court, respecting his ability to pay the money directed to be paid, for the discovery of property applicable to such payment and as to the disposal which he may have made of any property. Whether the judgment debtor appears or not, the judgment creditor, and all other witnesses whom the Court thinks requisite, may be examined on oath or otherwise, respecting the matters aforesaid. The Court may, upon such investigation as aforesaid, make any interim order for the protection of any property applicable or available for the discharge of the

judgment, as it shall think expedient, and may exercise all and any of the powers conferred on the High Court by section 4 of the Debtors Act.

Garnishee summons

95. Any judgment creditor may sue out a summons calling upon any person indebted to, or having in his hands money belonging to, any judgment debtor, hereinafter called a garnishee, to show cause why he should not pay over such debt or money to the Bailiff in satisfaction of the judgment debt and, upon failure to show sufficient cause, the Court may, by order, compel the garnishee to pay over such debt or money, at such times and in such manner as shall seem meet, by attachment or by directing execution to issue in manner herein provided. The service of such summons shall bind such debt in the hands of the garnishee.

Money levied to be paid into Court

96. All money payable under a judgment levied by execution or otherwise, under the process of the Court, shall be paid into Court, unless the Court shall otherwise direct.

Interpleader summons

97. Where any property of any kind is seized or taken into execution, or attached or taken into the hands of the Bailiff under any decree or order in any suit or proceeding under this Act, which is claimed by any person not a party to the suit, such claim shall be determined by the Court in a summary way, upon a summons to be taken out by such claimant against the party prosecuting the decree or order.

PART 10

SUPPLEMENTARY MATTERS RELATING TO CIVIL PROCEEDINGS

The Clerk may authenticate any process of the Court on the orders of the Magistrate

98. The signature of the Magistrate shall not be required to any process issued by the Court in the exercise of its civil jurisdiction if it purports to be signed by the Clerk, by order of the Magistrate, and is stamped or sealed with the seal of the Court.

Taxation of costs

99. The Clerk shall be the Taxing Master, and shall tax all bills of costs in civil proceedings before the Court, in accordance with the scales of fees for the time being in force:

Provided that, any taxation of costs shall be subject to review by the Magistrate on summary application to the Court made by any party aggrieved by the decision of the Clerk.

Award of costs in civil proceedings

100. The award of costs of any civil proceedings shall be in the discretion of the Court and may be apportioned in any manner which to the Court shall seem just and reasonable, and costs may be awarded though the suit is dismissed for want of jurisdiction.

Allowances to parties and witnesses

101. In any civil proceeding, the Court may allow such reasonable sum or sums of money for the attendance and loss of time and for travelling expenses of parties and witnesses as it shall think fit, not exceeding the scale fixed by Rules of Court.

Costs of process

102. The costs of and incidental to the execution of any process in a suit shall be paid, in the first place, by the party at whose instance the same is issued, subject to the final order of the Court thereon, and the Bailiff shall not be bound to serve any document or execute any process unless the fee to which he shall be entitled in respect thereof has been previously paid or tendered to him.

Rules of Court

103. (1) Subject to the provisions of this Act, the Chief Justice and any other two Judges of the High Court may make Rules of Court for regulating—

- (a) the practice and procedure to be followed and for prescribing the forms to be used in civil proceedings under this Act;
- (b) the procedure for the issue of a *subpoena* for the attendance of a witness or the production of any document or other thing by a witness, and for the enforcement of the penalty thereon if the witness makes default in compliance; and
- (c) the costs of each proceeding, including the costs of barristers and solicitors, and the allowances payable to witnesses.

(2) Until such time as any rules are made under subsection (1), the forms, procedures and costs prescribed under the Summary Jurisdiction Act, immediately before the date of commencement of this Act and set out in Schedule 2 in this Act, shall continue to be used, with such modifications as are necessary, and are deemed to be valid and sufficient, with such variations as the circumstances may require, for carrying out the requirements of this Act, as if they had been prescribed by Rules of Court made under this section.

Scales of fees

104. (1) Fees shall be payable in accordance with Schedule 1.

(2) The Governor acting on the advice of Cabinet may, by order fix the scales of fees, (including court fees and Bailiff's fees) and solicitor's costs to be taken in civil proceedings under this Act:

Provided that, this section shall not affect or restrict any special agreement made between a barrister or solicitor and his client in regard to the amount of his fees or remuneration.

(Amended by Act 9 of 2011)

Remission of Court fees in certain cases

105. (1) Notwithstanding section 104, in any cases where—

- (a) any person seeks to recover payment for services which he is compelled by law to render without pre-payment; or
- (b) any public officer seeks, in his official capacity, to recover any debt or payment due to the Government or to any public institution or statutory body; or
- (c) the Magistrate is satisfied of the inability of any plaintiff to pay the prescribed fees and that the plaintiff has, *prima facie*, a good ground of claim,

no Court or bailiff's fees shall be demanded from the plaintiff.

(2) The Court shall, on giving judgment for the plaintiff—

- (a) in a case such as is referred to in subsection (1)(a); or
- (b) in a case such as is referred to in subsection (1)(b),

order the defendant to pay to the plaintiff such fees as would, but for subsection (1), be chargeable, and such fees, if and when recovered by the plaintiff, shall be paid by him into the Consolidated Fund, and if the plaintiff after recovery of such fees fails to pay the same to the Treasury as required, within fourteen days of the receipt thereof, he shall be guilty of an offence and liable on summary conviction to imprisonment for a term of six months.

Bailiff to pay all fees received to the Court

106. Any fees or other sums paid to or on account of the performance by a Bailiff of his duties under this Act shall be paid by him to the Court and shall be accounted for, for the benefit of the Consolidated Fund.

Enforcement of orders of the Court

107. (1) Where power is given by any law in force in Montserrat for the Court to require any person to do or abstain from doing any act or thing other than the payment of money and no mode is prescribed for the enforcing of such requisition, the Court may exercise such power by an order and may annex thereto any conditions as to time or mode of action as may seem just and may suspend or rescind such order on such undertaking being given or condition being performed as may seem just and may make

such arrangements for carrying such power into effect as may seem expedient.

(2) Where a person makes default for more than ten days in complying with an order of the Court, other than for the payment of money, the Court, upon application by any party aggrieved and proof of the default may, unless it is otherwise provided in any enactment upon which such order is based, order that the person in default shall pay a sum of \$25 for each day while the default continues or that he shall be imprisoned until he has remedied his default, and any sum ordered to be paid under this subsection shall be recoverable summarily as a civil debt.

(3) No person shall be imprisoned under subsection (2) for a period or periods amounting in the aggregate to more than two months nor be made liable to payment of a sum or sums exceeding in the aggregate \$400.

PART 11

APPEALS

Appeals in criminal matters

108. An appeal shall lie to the Court of Appeal from any judgment, sentence or order of the Magistrate's Court in any criminal cause or matter in accordance with, and subject to Part 30 of the Criminal Procedure Code. *(Amended by Act 9 of 2010)*

Appeals in civil matters

109. (1) An appeal shall lie to the Court of Appeal from any judgment or order of the Magistrate's Court given or made in the exercise of its civil jurisdiction in accordance with the provisions of this Part and of section 30 of the Supreme Court Act.

(2) Hereafter in this Part any reference to “**appeal**” shall be construed as a reference to an appeal in a civil cause or matter such as is referred to in subsection (1).

Appeal to be by motion

110. (1) Every appeal shall be by way of motion.

(2) An appeal shall have the effect of suspending the execution of the decision, judgment or order against which the appeal is made until the final determination of the appeal.

Procedure on appeal

111. (1) The appellant in an appeal shall, within fourteen days after the day on which the decision was given against which the appeal is to be made, serve a notice in writing, in such form (if any) as may be prescribed,

upon the other party and on the Magistrate's Court of his intention to appeal, and such notice shall contain the grounds for the appeal:

Provided that, the Magistrate's Court or the Court of Appeal, upon application made by the intended appellant and upon being satisfied that there are sufficient grounds for so doing, may extend the time within which notice of appeal may be given for such period, not exceeding thirty days, and upon such conditions (if any) as the Court granting the extension of time considers to be reasonable.

(2) The notice required by subsection (1) may set forth all or any of the following reasons, and no other, that is to say—

(a) that the Court had no jurisdiction in the case:

Provided that, it shall not be competent for the Court of Appeal to entertain such reason for appeal, unless objection to the jurisdiction of the Court has been formally taken at some time during the progress of the case and before the pronouncing of the decision;

(b) that the Court exceeded its jurisdiction in the case;

(c) that the Magistrate was personally interested in the case;

(d) that the Magistrate acted corruptly or maliciously in the case;

(e) that the decision was obtained by fraud;

(f) that the case has been already heard or tried and decided by, or forms the subject of a hearing or trial pending before some competent tribunal;

(g) that admissible evidence substantially affecting the merits of the case was rejected by the Court;

(h) that inadmissible evidence was admitted by the Court and that there is not sufficient admissible evidence to sustain the decision after rejecting such inadmissible evidence;

(i) that the decision is unreasonable or cannot be supported having regard to the evidence;

(j) that the decision was erroneous in point of law;

(k) that some other specific illegality, not hereinbefore mentioned, and substantially affecting the merits of the case was committed in the course of the proceedings in the case; or

(l) that the judgment given or order was based on a wrong principle or was such that the Court viewing the circumstances reasonably could not properly have so decided.

(3) An appellant shall, subject as hereinafter in this subsection appears, set forth in the said notice the particular matter on which he relies

or of which he complains, in such manner as to inform the respondent thereof, as, for example, if he relies upon the reason for appeal stated in subsection (2)(f), the name of the tribunal shall be stated, and if a decision is alleged, the approximate date for such decision shall be stated; if he relies upon the reason for appeal stated in subsection (2)(j), the nature of the error shall be stated, and if he relies upon the reason for appeal stated in subsection (2)(k), the illegality complained of shall be clearly specified.

Service of notice of appeal

112. Every notice of appeal shall be in writing signed by the appellant or his counsel or solicitor and may be transmitted as a registered letter through the post in the ordinary way and is deemed to have been served at the time when it would be delivered in the ordinary course of the post.

Appeal papers to be transmitted to the Registrar of the Court of Appeal and the case set down for hearing

113. (1) The appellant shall, if so required by the Magistrate, within three days after the day on which he served notice of his intention to appeal, enter into a recognizance before the Magistrate with or without sureties, as the Magistrate may direct, conditioned to appear before the Court of Appeal and to try the appeal and to abide the judgment thereon of the Court of Appeal and to pay such costs as may be awarded by the said Court, or if the Magistrate thinks it expedient he may require the appellant, instead of entering into recognizances, to give such other security by payment of money into Court or otherwise as the Magistrate considers sufficient; and the Magistrate shall, without delay, transmit to the Registrar of the Court of Appeal all papers relating to such appeal together with a concise memorandum of his reasons for his decision.

(2) Upon receipt of the papers and memorandum sent to him under subsection (1), the Registrar of the Court of Appeal shall set down the appeal for hearing on such date as the Court of Appeal shall appoint and shall cause notice thereof to be served on the appellant and the respondent:

Provided that, except when otherwise agreed by the parties, not less than seven days notice shall be given by the Court of Appeal of the date appointed for the hearing of an appeal.

(3) Where any recognizance entered into under subsection (1) appears to the Court of Appeal to be insufficient or defective or invalid, the Court of Appeal may permit the substitution of a new and sufficient recognizance for that entered into before the Magistrate, and for that purpose may allow such time and impose such terms as to payment of costs to the respondent or respondents as appears just and reasonable, and such substituted recognizance shall be valid and effective for all purposes as if entered into at an earlier date as required by subsection (1).

Appeal limited to grounds given in notice

114. (1) At the hearing of an appeal, it shall not be competent for the appellant to go into, or give evidence of, any other reason for appeal than those set forth in his notice of appeal:

Provided that, where, in the opinion of the Court of Appeal, other reasons for appeal than those set out in the notice of appeal should have been given, or the statement of the grounds of appeal is defective, the Court of Appeal may in its discretion allow such amendments to the notice of appeal and upon such conditions as to service on the respondent and as to costs as the Court may think fit.

(2) On the hearing of an appeal, the Court of Appeal may draw inferences of fact from the evidence given in the Magistrate's Court and may decide the appeal with reference both to matters of fact and matters of law.

Costs

115. The Court of Appeal may make such order as to the costs to be paid by any party as the said Court may think just, and in the event of costs being allowed the Court of Appeal shall fix the amount at a sum not exceeding \$500 according to the importance of the appeal; or the length of the time occupied by the hearing thereof, and the sum so fixed shall cover all fees of office and all fees of counsel or solicitor:

Provided that, no Magistrate shall be liable to any costs in respect of any appeal against his decision.

Where appeal abandoned Court of Appeal may give respondent costs

116. Where an appeal is abandoned or withdrawn the Court of Appeal on proof of notice of appeal having been given to the respondent may make an order that the respondent shall receive such costs as the Court of Appeal may allow and such costs shall be recoverable as hereinafter provided.

Default of appearance of appellant

117. If the appellant, who has not given notice of abandonment or withdrawal of this appeal, makes default in appearing before the Court of Appeal and prosecuting his appeal, the Court of Appeal shall dismiss the appeal, and as soon as practicable thereafter the Deputy Registrar of the Court of Appeal shall transmit to the Clerk of the Magistrate's Court a certificate to that effect, and the Magistrate shall thereupon treat any recognizance entered into by the appellant as forfeited or may make such order as may seem just with respect to the amount lodged by the appellant, as the case may be or the circumstances may require:

Provided that, this section shall not derogate from the power of the Court of Appeal to make an order for the payment of costs by the appellant when dismissing the appeal, but any such order with respect to costs shall be taken into account by the Magistrate when giving directions under this

section as regards the forfeiture of any recognizances or with respect to any money lodged by the appellant.

How costs are payable

118. When an order is made upon either party for costs, such costs shall be payable to the proper officer of the Court to be by him paid over to the party entitled to the same and in the absence of any special direction shall be payable forthwith.

How costs are recoverable

119. If the costs on the appeal are not paid within the time ordered by the Court of Appeal, the proper officer shall, on the application of the party entitled to the same, or any person duly authorised on his behalf and on payment of the prescribed fee (if any), grant to such party a certificate that such costs have not been paid and on production thereof to the Clerk, the payment of such costs may be enforced in the manner prescribed by section 90 for the enforcing of the payment of money awarded by a decree or order of the Court and where a recognizance with sureties has been entered into, the Court shall enforce any payment due thereunder in the manner prescribed by this Act.

Transmission and publication of judgment

120. (1) Where the decision of a Magistrate is varied or reversed on appeal, the judgment of the Court of Appeal shall be reduced into writing and shall set forth the reasons therefor.

(2) Within five days after the pronouncement of the judgment the Registrar of the Court of Appeal shall transmit a certified copy thereof to the Magistrate's Court.

(3) Any person may, on paying the fee for an office copy of documents, obtain from the Registrar of the Court of Appeal, a copy of the judgment.

(4) The Registrar of the Court of Appeal shall without delay cause the judgment to be published in the *Gazette*.

Enforcing judgment

121. After the pronouncement of the judgment of the Court of Appeal, the Magistrate's Court shall have the same jurisdiction and power to enforce, and shall enforce, any decision which has been affirmed, modified or amended by the Court of Appeal or any judgment pronounced by the Court of Appeal, in the same manner in all respects as if that decision or judgment had been pronounced by the Magistrate's Court.

PART 12

RECOGNIZANCES AND SECURITIES

Procedure on non-compliance with order for person to be bound over to keep the peace

122. (1) Where any person who has been ordered, under section 306 of the Criminal Procedure Code, to enter into recognizances and to find sureties to keep the peace or to be of good behaviour towards any person refuses to comply or makes default in complying with such order, the Magistrate's Court may order such person to be imprisoned for a period of six months. (*Amended by Act 9 of 2010*)

(2) Where a person has been imprisoned under subsection (1), the Court, on application made by or on behalf of the imprisoned person or by any other person, may inquire into the case and, upon new evidence being produced or on proof of a change of circumstances or other sufficient reason, the Court may reduce the amount required in the recognizance or dispense with sureties or otherwise deal with the case as appears just, and may for the purpose reduce the term of imprisonment imposed on the person in default or may order his release from prison.

(3) An appeal shall lie to the Court of Appeal from an order for imprisonment made under subsection (1) in the same manner and subject to the same conditions as if such order was a summary conviction.

Form of recognizance

123. (1) Every recognizance shall specify the profession or calling of the person entering into or acknowledging the same together with his forename and surname and the name of his place of residence and when acknowledged shall be subscribed by the Magistrate; and it shall be conditioned in the case of—

- (a) an accused person that he will duly appear at the time and place of trial or of adjourned hearing, and not depart the Court without leave;
- (b) in the case of a prosecutor or witness that he will duly appear at the time and place of the trial of the accused and then and there prosecute or give evidence or prosecute and give evidence as the case may be against the person accused; and
- (c) in the case of recognizances to keep the peace or to be of good behaviour and in any other case, in such manner as the Magistrate shall direct.

(2) A written notice of such recognizances signed by the Magistrate shall at the same time be given to the person bound thereby.

Proof of sufficiency

124. The Magistrate may in his discretion require any person entering into recognizances, whether as a surety or otherwise, to justify upon oath as to their sufficiency.

Estreating recognizance conditioned for keeping the appearance

125. Where a recognizance is conditioned for the appearance of a person before the Court or for his doing some other matter or thing to be done before a Magistrate or in the Court, the Magistrate, if such recognizance appears to him to be forfeited, may declare the same to be forfeited and enforce payment of the sum due thereunder in the same manner as the payment of a fine may be enforced which has been imposed on summary conviction:

Provided that, at any time before the sale of goods under a warrant of distress for the said sum, the Magistrate may cancel or mitigate the forfeiture upon the person liable applying and giving security to the satisfaction of the Court for the future performance of the conditions of his recognizance and paying or giving security for the payment of the costs incurred in respect of the forfeiture or upon such other conditions as the Court may think just.

Estreating recognizance conditioned for keeping the peace or doing some act or thing

126. Where a recognizance conditioned to keep the peace or be of good behaviour or not to do or commit some act or thing has been entered into by any person as principal or surety, the Court, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is in law a breach of the condition of the same, may adjudge such recognizance to be forfeited and order any person bound thereby, whether as principal or surety, to pay the sums for which he is bound.

Payment of sums forfeited

127. All sums payable in respect of a recognizance declared or adjudged by the Court to be forfeited shall be paid to the Clerk and shall be paid and applied in the manner in which fines imposed by the Court, in respect of which no special appropriation is made, are payable and applicable.

Recognizances may be transmitted to the Court for estreat

128. A person seeking to put in force in recognizance to keep the peace or to be of good behaviour may by notice in writing require such recognizance to be transmitted to the Court to be dealt with as the law provides.

Securities

129. A person shall give security under this Act or any other law, whether as principal or surety, either by the deposit of money with the Court or by

an oral or written acknowledgement of the undertaking or condition by which, and of the sum for which, he is bound, in such manner and form (if any) as may be prescribed, and evidence of such security may be provided by entry thereof in the register of proceedings of the Court or otherwise as may be prescribed.

How forfeited security to be realised

130. Any sum which may become due from a surety, pursuant to a security given, shall be recoverable summarily, in the same manner as a civil debt, by a police officer or by some other person authorised for the purpose by the Magistrate.

Security given by a principal on conviction to be recovered like a fine

131. The Court may enforce payment of any sum due by a principal pursuant to a security which appears to the Court to be forfeited, in the same manner as the payment of a fine may be enforced which has been imposed on summary conviction, if the security was given for a sum adjudged by conviction, and in any other case in like manner as if it were a sum adjudged by the Court to be paid as a civil debt:

Provided that, before a warrant of distress for the sum is issued, such notice of the forfeiture shall be served on the said principal, and in such manner (if any) as may be prescribed, and subject thereto as the Magistrate may direct when application is made for the issue of the warrant.

Surety paying under a security may recover the amount from the principal

132. Any sum paid by a surety on behalf of his principal in respect of a security under this Act, together with all costs, charges and expenses incurred by such surety in respect of such security, is deemed a civil debt due to him from the principal, and may be recovered accordingly.

Security to be realised before other steps are taken

133. Where security is given under this Act for payment of a sum of money, the payment of such sum shall be enforced by means of such security in substitution for other means of enforcing such payment.

Recognizance taken out of Court

134. When the Court has fixed as respects any recognizance, the amount in which the principal and the sureties (if any) are to be bound, the recognizance notwithstanding anything in this or any other law need not be entered into before the Magistrate but, subject to any rules of court, may be entered into by the parties before the Clerk or before any police officer in charge of any police station or, where any of the parties is in prison, before the Superintendent of such prison, and where a recognizance has been entered into for the due appearance of the principal at the Magistrate's

Court and such person duly appears in accordance with the condition in such recognizance, the bail may be renewed by any police officer in the said Court, if the Magistrate be not present, and thereupon all the consequences of law shall ensue, and the provisions of this Act with respect to recognizances shall apply as if the recognizances had been entered into before the Magistrate as heretofore by law required.

PART 13

DISTRESS WARRANT PROCEDURE

Execution of distress warrant

135. (1) Where a distress warrant is issued in any case to which the provisions of Part 9 (relating to judgment and execution in civil proceedings) do not apply, the warrant shall be executed by a police officer, or by the Bailiff in the presence of a police officer and after sunrise and before sunset.

(2) The person executing a distress warrant under subsection (1) shall seize, take and levy upon the goods and chattels of the person against whom the distress is levied:

Provided that, the wearing apparel excluding jewellery and bedding of the person and that of his family and (to the value of \$1,000) the tools and implements of his trade shall not be taken under a distress warrant.

(3) Subject to any directions to the contrary given by the warrant of distress, where the distress is levied on household goods, the goods shall not, except with the consent in writing of the person against whom the distress is levied, be removed from the premises until the day of sale, but so much of the goods shall be impounded as are, in the opinion of the person executing the warrant, sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark and any person removing any goods so marked or defacing or removing the said mark; shall be guilty of an offence and liable on summary conviction to a fine of \$100.

Sale by public auction

136. (1) Save so far as the person against whom the distress is levied under this Part otherwise consents in writing, the distress shall be sold by public auction, and five clear days at the least shall intervene between the making of the distress and the sale, and where written consent is so given as aforesaid, the sale may be made in accordance with such consent.

(2) Subject to subsection (1), the distress shall be sold within the period fixed by the warrant, and if no period is so fixed, then within the period of fourteen days from the date of making of the distress, unless the sum for which the warrant was issued, and also the charges of taking and keeping the said distress, are sooner paid.

Costs of sale to be deducted from proceeds

137. The police officer by whom or in whose presence the execution of a warrant of distress was made under this Part, shall cause the distress to be sold, and may deduct out of the amount realized by such sale all costs and charges actually incurred in effecting such sale, and shall render to the owner the overplus, if any, after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.

Warrant not to be executed if amount due and all costs are paid or tendered

138. Where a person pays or tenders to the person charged with the execution of a warrant of distress under this Part or under Part 9, the sum mentioned in such warrant, or produces the receipt for the same to the Magistrate or the Clerk, and also pays the amount of the costs and charges of such distress up to the time of such payment or tender, the warrant shall not be executed.

Replevy

139. Any person (other than the person mentioned in the warrant) who claims to be the owner of property levied upon may, within the five clear days referred to in section 136(1), replevy the property in the manner and form in which goods are replevied which have been distrained upon for non-payment of rent. If within such five days as aforesaid the property levied on is not replevied no person other than the person mentioned in the warrant as aforesaid shall have any right of action against any other person in respect of such property.

Penalty for extortion, etc.

140. Where a person, charged with the execution of a warrant of distress under this Part or under Part 9, wilfully retains from the produce of any goods sold to satisfy the distress, or otherwise exacts, any greater costs and charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall be guilty of an offence and liable on summary conviction to a fine of \$200 or to imprisonment for six months, or to both such fine and imprisonment.

Account of costs to be sent to the Magistrate

141. A written account of the costs and charges incurred in respect of the execution of any warrant of distress under this Part shall be sent by the person charged with the execution of the warrant so soon as practicable to the Magistrate; and the person upon whose goods the distress was levied may, within one month after the levy of the distress, inspect such account, without fee or other payment, at any reasonable time to be appointed by the Magistrate, and may take a copy of such account.

PART 14

SUPPLEMENTARY

Power to adjourn and remand

142. If during any civil proceedings in the Court it appears to the Magistrate desirable so to do, he may from time to time adjourn the hearing of the proceedings to a certain time and place to be appointed in the hearing of the parties or of their counsel or solicitors.

(Substituted by Act 9 of 2010)

Powers of Clerk

143. (1) The Clerk shall have power to issue summonses, subject to and in accordance with any directions given to him in that behalf by the Magistrate.

(2) Without prejudice to section 11, the Clerk may open, adjourn and close the Court when the Magistrate is unable to attend at any time appointed for the holding of a sitting of the Court, and all pending matters shall stand over to the adjourned sitting of the Court.

(3) Where the Court is adjourned by the Clerk, under subsection (2), all summonses, *subpoenas* and other processes valid for the sitting of the Court at which the Magistrate was unable to attend shall continue valid and of full effect for the adjourned date of the sitting of the Court, and the Clerk shall announce in open Court the date and place of the adjourned hearing:

Provided that, where any defendant or witness in any proceedings before the Court is in custody, the Clerk shall not have power to grant bail, but shall not order an adjournment for more than one week.

Power to issue *subpoena*

144. In the exercise of its civil jurisdiction under this Act, the Court shall have the same powers to issue a *subpoena* (to compel a witness to attend before the Court and give evidence or to compel a witness to attend before the Court and to produce documents, records or otherwise as may be specified) as the High Court has under the Supreme Court Act; and section 77 of that Act (with respect to the punishment of disobedience of a *subpoena* shall apply *mutatis mutandis* to confer power for the Magistrate to punish any person who refuses or neglects to comply with a *subpoena* issued by the Magistrate's Court.

Power to preserve order

145. Without prejudice to the provisions of any other law, if any person—

- (a) wilfully obstructs by act or threat an officer of the Court in the performance of his duty in Court; or

- (b) within or close to the room or place where the Court is sitting, wilfully misbehaves in a violent, threatening or disrespectful manner, to the disturbance of the Magistrate, or to the intimidation of witnesses, suitors or others resorting to the Court; or
- (c) wilfully insults the Magistrate or any officer of the Court during his sitting or attendance in the Court,

the person so acting shall be guilty of an offence and liable to be immediately apprehended by order of the Magistrate; and, if the Court is then sitting or about to sit, to be detained until the rising of the Court, and on inquiry and consideration then and there, and without further trial, to be punished with a fine not exceeding \$500 or in default of payment with imprisonment for not more than fourteen days.

(Amended by Act 8 of 1999)

Power to enforce execution of process

146. (1) Any person who resists or wilfully obstructs the execution of any order or process of the Court shall be guilty of an offence and the Magistrate may forthwith issue a warrant for the arrest of that person and cause him to be brought before the Court and, upon being satisfied of the facts by evidence on oath, may—

- (a) convict him and impose a fine of \$50; or
- (b) direct that proceedings be brought against him for an offence under section 106 of the Penal Code.

(2) Where any person is punished summarily under section 145 or under subsection (1) of this section, he shall have the same right of appeal as in the case of a summary conviction for any other offence.

Proof of service, etc.

147. In any proceedings before the Court, service of any summons, notice, process or document required or authorized to be served on any person may be proved in the manner provided in the Criminal Procedure Code. *(Substituted by Act 9 of 2010)*

Return of property taken from prisoner

148. Where any property has been taken from a person charged before the Court with any offence punishable either on indictment or on summary conviction, a report shall be made by the police to the Magistrate of the fact of such property having been taken from the person charged and of the particulars of such property, and the Magistrate shall, if of opinion that the property or any portion thereof can be returned consistently with the interests of justice and with the safe custody of the person charged, direct such property or any portion thereof to be returned to the person charged or to such other person as he may direct.

Register of the Court

149. (1) The magistrate or other person authorised by the Criminal Procedure Code shall keep a register of the Minutes or memoranda of all the convictions and orders of the Court and of such other proceedings as are directed by the Criminal Procedure Code or the rules of court to be registered, and shall keep the same with such particulars and in the form required by the Criminal Procedure Code. (*Substituted by Act 9 of 2010*)

(2) Such register, and also any extract from such register certified by the Clerk or the Magistrate to be a true extract, shall be *prima facie* evidence of the matters entered therein; but nothing in this section shall dispense with the legal proof of a previous conviction for an offence when required to be proved against a person charged with another offence.

(3) The entries relating to each minute, memorandum or proceeding shall be signed by the Magistrate by or before whom the conviction or order or proceeding referred to in the minute or memorandum was made or had.

(4) Every sum paid to the Clerk or Magistrate in accordance with this Act and the appropriation of such sum, shall be entered and authenticated in such manner as may be prescribed.

(5) The register shall be open for inspection without fee or reward, by any person authorised in that behalf by the Magistrate or by the Governor, acting in his discretion.

Fees in proceedings on informations and complaints

150. (1) Such fees as may be prescribed shall be payable in respect of informations or complaints, summonses, warrants of arrest, search warrants, distress warrants and declarations made on oath in any proceedings before the Court:

Provided that, the Magistrate may remit or refund the fees otherwise payable if he considers it to be expedient in the interest of justice so to do:

Provided further, that, upon an information or complaint by a police officer, no fees shall be payable.

(2) Notwithstanding subsection (1), the Governor acting on the advice of Cabinet may direct that no fees shall be payable under this section by a public officer who is acting in the performance of his duty or by any person acting on behalf of any statutory board or public body named in such order.

(3) Until such time as any fees are prescribed for the purposes of this section, the fees heretofore payable under section 228 of the Magistrate's Code of Procedure Act and set out in clause 1 of Schedule 1 of this Act shall continue to be payable and are deemed to have been prescribed for the purposes of this section.

(*Amended by Act 2 of 1997*)

Disposal of fees, fines, etc.

151. All fees, fines, penalties, proceeds of forfeitures and other moneys paid to the Court, the Magistrate, the Clerk or any other officer of the Court shall be duly accounted for in the records of the Court and shall be paid by the Magistrate into the Consolidated Fund, except where otherwise expressly provided by any enactment.

Rules

152. The Governor acting on the advice of Cabinet may make rules, subject to negative resolution, for carrying into effect the provisions of this Act and, without derogation from the generality of the power hereby conferred, such rules may provide for—

- (a) the procedure for the giving of security under this Act;
- (b) the forms to be used under this Act;
- (c) the form of the accounts to be kept and rendered, by the Magistrate and the Clerk, of fines, fees and other sums received;
- (d) the fees to be paid under any provisions of this Act, including court fees and bailiff's fees:

Provided that, rules shall not be made under this section for matters for which provision may be made in relation to civil proceedings by Rules of Court made under section 103, or for scales of fees referred to in section 104.

(Amended by Act 9 of 2011)

SCHEDULE 1*(Sections 104 and 150)**(Substituted by S.R.O. 6/2013)***FEES****COURT FEES**

1. Entering a suit, including summons and copy for service and judgment	\$75
2. Hearing fee	\$20
3. Court Interpreters' fee.....	\$50
4. Summons to witness and copy for service	\$30
5. Execution (<i>Fifa</i>)	\$50
6. Warrant of distress or of possession or execution under the Small Tenements Act	\$75
7. Order of Attachment of moneys or Garnishee summons	\$75
8. Any other summons including copy for service and Order thereon	\$50
9. Order for new trial	\$75
10. Affidavit, each oath.....	\$25
11. Appointment of estimators, under Small Tenements Act	\$30

OTHER FEES

1. For entering an information or a complaint	\$50
2. For a summons to a defendant.. ..	\$25
3. For a summons to a witness.. ..	\$25
4. For a warrant of arrest	\$50
5. For a search warrant	\$75
6. For a warrant of distress	\$75
7. For any other document.	\$30

BAILIFF'S FEES

1. Service of summons, notice or other document required to be served	\$ 15
2. Arrest under order of committal on judgment summons, and taking person arrested to prison.....	\$100
3. Seizure of property under Attachment, Possession or Execution	\$100
4. Taking Security or Bail and enquiry into sufficiency thereof.....	\$ 60
5. Levy fee — 5% on net proceeds of sale.....	

SCHEDULE 2*(Sections 103 and 152)***FORMS**

1.

WRIT OF SUMMONS

(Royal Arms)

IN THE COURT OF SUMMARY JURISDICTION OF MONTSEERRAT

Suit No.	Between	}	A.B., Plaintiff, and C.D., Defendant.
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ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

To _____ *(Name and address of defendant).*

We command you that you do attend our Court of Summary Jurisdiction at _____, on the _____ day of _____, at _____ a.m, being the day and time appointed for the hearing of a suit instituted against you by *(name and address of plaintiff)*, particulars of whose claim are annexed hereto.

Take notice that, if you fail to attend the hearing of the suit, or at any continuation or adjournment thereof, the Court may give leave to the plaintiff to proceed therein, *ex parte*, to judgment and execution.

Witness _____, Judge of the said Court, this _____ day of _____, 20 _____.

By order,

Clerk.

Particulars of Claim.

N.B.—Insert the particulars of the claim in the usual form. If the items are too numerous, as in some claims for goods sold, the entry may be as follows—

To goods sold, or money lent, or wages due by you	}
etc., as per bill or memorandum annexed	
Interest from _____ to _____

Endorsement on Writ.

The within writ was served on the within named defendant at _____, by delivering a true copy thereof (*or describe other mode of service*) on the _____ day of _____, 20____.

2.

SUBPOENA

(Royal Arms)

IN THE COURT OF SUMMARY JURISDICTION OF MONTSEERRAT

Suit No. _____ Between _____ } A.B., Plaintiff,
and
C.D., Defendant.

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

To

You (*and each of you*) are hereby commanded that, all excuses being laid aside, you (*and each of you*) be and appear in your own proper person before the Court of Summary Jurisdiction at _____, on the _____ day of _____, at _____ a.m, or at any continuation or adjournment of the said Court, to testify all and singular that you know in a certain cause or matter now pending between the above-named plaintiff and defendant, then and there to be heard and determined (*and you are required to bring with you* _____).

Therefore fail not at your peril.

Witness _____, Judge of the said Court, this _____ day of _____, 20____.

By order,

Clerk.

3.

WARRANT TO ATTACH PROPERTY BEFORE JUDGMENT

(Royal Arms)

IN THE COURT OF SUMMARY JURISDICTION OF MONTSERRAT

Suit No.	Between	}	A.B., Plaintiff, and C.D., Defendant.
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ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

To Bailiff, and his assistants.

Whereas it has been shown, to the satisfaction of the said Court, that ,
the defendant in the above suit, with intent to obstruct, or delay, the execution of any judgment which may be passed against him, is about to remove out of Montserrat his goods and chattels, or some part thereof. You are hereby commanded to seize, attach and to take into your hands the goods, chattels, and effects of the said defendant (*or certain goods and chattels specified*), and to hold the same until the further order of the said Court; and you are also commanded, forthwith after the execution of this writ, to return the same into the said Court, with the place, time and particulars of execution endorsed thereon.

Witness ,
of , 20 . , Judge of the said Court, this . day

By order,

Clerk.

5.

WRIT OF EXECUTION BY SEIZURE OF GOODS AND CHATTELS

(Royal Arms)

IN THE COURT OF SUMMARY JURISDICTION OF MONTSERRAT

Suit No.	Between	}	A.B., Plaintiff, and C.D., Defendant.
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ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

To Bailiff, and his assistants.

Whereas , the above-named defendant, has failed to satisfy a decree made against him in the above suit on the day of , 20 , in favour of the above-named plaintiff, for \$, together with \$ for costs. You are hereby commanded to levy the sum of \$ *(insert total amount of decree and costs)* of the goods, chattels, and effects of the said defendant, excepting the wearing apparel, and bedding of the said defendant, or his family, and the tools and implements of his trade to the value of \$24, but including money, or bank notes, and any cheques, bills of exchange, promissory notes, specialties, or securities for money, belonging to the said defendant, and to return this writ into the said Court with an endorsement thereon of the date and place of execution.

Witness , Judge of the said Court, this day of , 20 .

By order,

Clerk.

6.

INTERPLEADER SUMMONS

(Royal Arms)

IN THE COURT OF SUMMARY JURISDICTION OF MONTSEERRAT

Suit No.	Between	}	A.B., Plaintiff, and C.D., Defendant.
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In the matter of E.F., a claimant of property seized, under process of the Court, in the above suit.

To A.B., the above-named plaintiff.

Take notice, that you are hereby summoned to appear before the said Court on _____, the _____ day of _____ 20____, at the hour of _____ a.m to show cause why certain goods and chattels seized, under the process of the Court, in the above suit, should not be declared and adjudged to be the property of E.F., the above-named claimant thereof and be delivered to him accordingly.

Witness _____, Judge of the said Court, this _____ day of _____, 20____.

By order,

Clerk.

7.

JUDGMENT DEBTOR SUMMONS

(Royal Arms)

IN THE COURT OF SUMMARY JURISDICTION OF MONTSEERRAT

Suit No.	Between	}	A.B., Plaintiff, and C.D., Defendant.
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To _____, the above-named defendant.
 Take notice, that you are hereby summoned to appear before the said Court
 on _____, the _____ day of _____, 20____, at the hour of _____ a.m,
 then and there to be examined respecting your ability to satisfy the judgment recovered
 against you, in the above suit, on the _____ day of _____, 20____, last for \$
 and costs.

Witness _____, Judge of the said Court, this _____ day
 of _____, 20____.

By order,

Clerk.

MAGISTRATE'S COURT RULES

ARRANGEMENT OF RULES

RULE

1. Short title
2. Interpretation
3. Register
4. Plea of guilty
5. Recording dismissals under Probation of Offenders Act
6. Restriction on part-payment
7. Noting payments on commitment
8. Payment on first days imprisonment
9. Allocation of part-payments
10. Recognizance entered into separately
11. Certificate as to conditions of recognizance
12. Transmission of recognizance
13. Mode of application to vary order for sureties
14. Form of security
15. Security book
16. Notice to principal of forfeiture of security
17. Particulars of claim
18. Judgment by confession
19. Hearing fee
20. Interpreter's fees
21. Judgment summons
22. Service of judgment summons and summons to defaulting debtor
23. Issue and proof of service of judgment summons
24. Time of service
25. Adjournment and suspension
26. Witnesses on judgment summons
27. Variation of order
28. Date of order of commitment
29. Payment of debt after commitment
30. Release of judgment debtor
31. Costs of judgment creditor in enforcing order
32. Relief of officer of Court, etc., from duties under order
33. Certificate of imprisonment for bastardy arrears
34. Application for special case
35. Drawing up convictions
36. Procedure in replevin under section 139 of the Act

37. Miscellaneous applications to Magistrates
 38. Notice of conditions of probation
 39. Forms
- SCHEDULE: Forms

MAGISTRATE'S COURT RULES – SECTION 152

(S.R.O. (L.I.) 7/1956)

Short title

1. These Rules may be cited as the Magistrate's Court Rules.

Interpretation

2. In these Rules—

“**Act**” means the Magistrate's Court Act;

“**Court**” means the Magistrate's Court;

“**Schedule**” means the Schedule to these Rules.

Register

3. (1) The register to be kept by the Magistrate or his Clerk under section 149 of the Act shall contain such particulars as appear by the form numbered 111 in the Schedule.

- (2) A separate register relating to the proceedings of a juvenile court shall be kept and shall contain such particulars as appear in the form numbered 112 in the Schedule.

- (3) When a Magistrate convicts a person of an offence he shall show clearly by the entries in the register relating to the case of what offence he convicts the defendant; and the date of such offence shall be stated in the register.

- (4) When further time is allowed for payment of a fine, an entry of the further time allowed shall be made either in the column of the register headed “Time allowed for payment and instalments”, or in a book kept for recording fines for the payment of which time has been allowed, and if the Magistrate directs payment to be made by instalments, an entry should be made as above to that effect. Such entries shall be signed and dated by the Magistrate whenever he allows further time or directs payment by instalments.

Plea of guilty

4. (1) In every case in which a person appears before the Court to answer a charge, information or complaint which the Magistrate has power to deal with summarily, the Magistrate, before he convicts such person, shall ask if he pleads guilty or admits the truth of the charge, information or complaint; and if he does so an entry of the fact shall be made in the register.

- (2) Where a Magistrate tries any person summarily in any case in which he may be tried summarily only with his consent or in which he has a right to claim trial by a jury he shall cause to be entered in the register his election to be tried summarily.

Recording dismissals under Probation of Offenders Act

5. When a Magistrate dismisses an information or charge or binds over an offender under the Probation of Offenders Act, the minute of adjudication entered in the register shall be “**Dismissed [Bound over] P.O. Act**”.

Restriction on part-payment

6. When a term of imprisonment is imposed by a Magistrate in respect of the non-payment of any sum adjudged to be paid by a conviction or order of a Magistrate, no sum tendered in part-payment of that sum need be accepted unless it is the amount required to secure one day's reduction of the sentence or some multiple thereof; and when a warrant of distress or commitment has been issued, no part-payment shall be accepted until the fee, if any, payable for such warrant has been discharged.

Noting payments on commitment

7. When payment is made to any person having custody of the defendant, the person receiving it shall forthwith note the receipt thereof on the commitment.

Payment on first days imprisonment

8. Where a term of imprisonment is imposed by a Magistrate in respect of the non-payment of any sum adjudged to be paid by a conviction or order of a Magistrate's Court, a person committed to prison or to detention under Part 4 of the Act in default of payment shall not be entitled to be discharged upon the first day of his imprisonment or detention except upon payment in full of the sum in respect of which the committal took place.

Allocation of part-payments

9. In any case where under section 41 of the Act, a part of any sum adjudged to be paid by a conviction of a Magistrate has been received by a person authorised to receive it and paid over in accordance with the said section of the Act into the Treasury or to the Magistrate or to his Clerk, the Clerk shall apply that sum, firstly towards the payment in full or in part of any costs which the Magistrate may have ordered by the conviction to be paid to the prosecutor or complainant; secondly towards the payment in full or in part of any damages or compensation which the Magistrate may have ordered by the conviction to be paid to the prosecutor or complainant; and thirdly in the manner in which section 151 of the Act directs that the fine shall be applied; and in any case where, under the said section, a part of any sum of money adjudged to be paid by an order of a Magistrate has been received by a person authorised to receive it, and paid over in accordance with that section, the Clerk shall apply that sum as directed by the order.

Recognizance entered into separately

10. When a defendant has been committed to prison by a Magistrate in default of finding sureties, and the sureties afterwards enter into their recognizance separately from the defendant a certificate in the form numbered 83 in the Schedule shall be sent forthwith by the Magistrate or other person taking their recognizance to the Superintendent of the said prison that such recognizance has been entered into; and, if

the defendant has already entered into his recognizance, he shall then be released; and if the defendant has not already entered into his recognizance, the Superintendent of Prison shall take his recognizance and discharge him, if held for that cause and no other.

Certificate as to conditions of recognizance

11. When a person appears before a Magistrate, or before any Clerk of a Magistrate, or before a Superintendent of Police or any other officer of police or constable in charge of any police station for the purpose of entering into a recognizance under section 134 of the Act, before he shall be entitled to enter into such recognizance, he shall produce, if so required by such Magistrate, Clerk of a Magistrate, Superintendent of Police or any other officer of police or constable, a certificate in the form numbered 84 in the Schedule, from the Clerk of the Court the Magistrate of which has required the recognizance or fixed the amount thereof showing the condition of such recognizance and the amount in which the principal and sureties are to be bound.

Transmission of recognizance

12. If a recognizance of either the principal or the sureties is taken separately by a Magistrate or person other than the Magistrate who committed the defendant to prison, the recognizance shall forthwith be forwarded to the Court which committed the defendant.

Mode of application to vary order for sureties

13. An application under section 122(2) of the Act shall be an application for a summons the complainant to show cause why the order made on his complaint shall not be varied.

Form of security

14. Any security given under the Act by an oral or written acknowledgement shall be in the form of an undertaking, and may be in the appropriate form in the Schedule.

Security book

15. The Magistrate or his Clerk shall keep a security book, and shall enter therein, with respect to each security given in relation to any proceedings before the Court, the name and addresses of each person bound, showing whether he is bound as principal or as surety, the sum in which each person is bound, the undertaking or condition by which he is bound, the date of the security, and the person before whom it is taken. When any such security is not entered into before the Court, or before the Clerk of the Court, the person before whom it is entered into shall make a return of it, showing the above particulars, to the Clerk of the Court. The security book, and any certified extract therefrom, shall be evidence of the several matters hereby required to be entered in the security book in like manner as if the security book were the register.

Notice to principal of forfeiture of security

16. Not less than two clear days before a warrant of distress is issued for a sum due by a principal pursuant to a forfeited security under the Act, the Clerk of the Court issuing the warrant shall cause notice of the forfeiture to be served on the principal. Service of the notice may be effected either by prepaid letter sent to the address mentioned on the security, or as service of a summons may be effected under the Act.

Particulars of claim

17. In civil proceedings the particulars of claim shall, unless embodied in the summons, be annexed to and, if so annexed, shall be deemed part of the summons.

Judgment by confession

18. (1) In all civil proceedings, judgment by confession, or by consent of parties, may be entered at any time, and in every such case a memorandum of such confession or consent, and of the particulars of the judgment to be entered, shall be signed by the party or parties, or their solicitors, in the presence of the Magistrate or Magistrate's Clerk, and filed in the Court.

(2) When judgment by confession, or by consent of parties, is entered under this rule, no hearing fee shall be chargeable and the plaintiff shall recover his costs of suit according to the prescribed scale of fees, unless otherwise agreed between the parties.

Hearing fee

19. The prescribed hearing fee shall be paid by the plaintiff, prior to the commencement of the hearing of all civil proceedings where judgment has not been entered by confession, or consent.

Interpreter's fees

20. (1) In all civil proceedings where evidence in any language other than English is introduced during the hearing of the proceedings, by any of the parties or their witnesses, the prescribed court interpreter's fee shall be payable.

(2) Such fee shall be payable by the party to the action in whose interest such evidence may be adduced.

(3) Such fee shall be payable in respect of the services of the official court interpreter only:

Provided that, the Magistrate may order costs where the services of special unofficial interpreters are engaged during the hearing of any civil proceedings.

(4) Such fees shall not form part of the personal emoluments of the court interpreter, but shall be paid into the Treasury of Montserrat.

Judgment summons

21. An order for commitment under section 94 of the Act shall not be made unless a summons in the form numbered 58 in the Schedule (hereinafter called a judgment summons), or, if the judgment debtor has made default in payment of any instalment

of a judgment debt payable pursuant to an order of the Magistrate, a summons in the form numbered 60 in the Schedule (hereinafter called a summons to a defaulting debtor) has been served on the judgment debtor.

Service of judgment summons and summons to defaulting debtor

22. A judgment summons or summons to a defaulting debtor shall, whenever it is practicable, be served personally on the judgment debtor or defaulting debtor, as the case may be, but if it is made to appear on oath to the Court that prompt personal service is for any reason impracticable, the Court may make such order for substituted or other service as the Court may think just.

Issue and proof of service of judgment summons

23. A judgment summons may issue although no execution has been applied for, and its service, where made out of the jurisdiction of the Court issuing the summons, may be proved by affidavit or solemn declaration.

Time of service

24. A judgment summons or summons to a defaulting debtor shall be served not less than two clear days before the day on which the judgment debtor or defaulting debtor, as the case may be, is required to appear.

Adjournment and suspension

25. On the hearing of a judgment summons the Magistrate may adjourn the same from time to time either unconditionally or on such conditions as to payment of the judgment debt immediately or at such times as he may order, and in the event of his making a commitment order may direct the issue of the same to be suspended for such time as he shall think fit, but such order of suspension though minuted shall not appear on the face of the order of commitment.

Witnesses on judgment summons

26. Any witness may be summoned to prove the means of the judgment debtor whether on the hearing of a judgment summons or on an application for the variation of an order of commitment in the same manner as witnesses are summoned to give evidence on the hearing of a complaint.

Variation of order

27. (1) Where an order of commitment after proof of means and ability to pay has been made for the payment of a judgment debt and costs, or by instalments and it appears to the satisfaction of the Magistrate that the judgment debtor liable under the order of commitment is unable to pay the sum ordered to be paid at the time or by the instalments ordered, he may, on the application of such judgment debtor made on complaint served on the judgment creditor seven days at least before the hearing of the application, order the amount due and unpaid under the order of commitment to be paid by instalments, or, if already payable by instalments by smaller instalments, and may from time to time vary such order.

(2) In like manner, if it happens to the satisfaction of the Magistrate that the judgment debtor liable under such order of commitment is able to pay the sum ordered to be paid either in one sum or by larger instalments than those ordered he may on the application of the judgment creditor made on the like complaint served on the judgment debtor, order the amount due and unpaid to be paid in one sum, or by larger instalments than those previously ordered, and may from time to time vary such order.

Date of order of commitment

28. An order of commitment made under section 94 of the Act, shall, on whatever day it is issued, bear the date of the day on which it was made.

Payment of debt after commitment

29. When an order for commitment is made the judgment debtor may at any time pay the amount due by him (including the costs, if any, of conveying him to prison) to the bailiff, or the Superintendent of the prison, holding the order, who shall forthwith pay over the sums so received by him to the Magistrate or the Magistrate's Clerk, or such sums as aforesaid may be paid to the Magistrate or the Magistrate's Clerk, who shall in each of the before mentioned cases sign a certificate of the payment.

Release of judgment debtor

30. Where the bailiff, or the Superintendent of the prison, holding the order receives payment as aforesaid or receives such certificate as aforesaid, the judgment debtor shall be forthwith released by him.

Costs of judgment creditor in enforcing order

31. All costs incurred by the judgment creditor in endeavouring to enforce an order are, unless the Court orders otherwise, deemed to be due pursuant to the order, as if it were made under section 4 of the Debtors Act.

Relief of officer of Court, etc., from duties under order

32. When an order has been made by a Magistrate for periodical payments of money to be made through an officer of the Court or through any other person or officer, if complaint is made by such officer or other person that the person on whose behalf the money is ordered to be paid has persistently received the payments required under the order direct from the person liable to make the payments, the Magistrate may, upon proof thereof, make an order relieving him of his duty under the first mentioned order and requiring that payment be made direct:

Provided also, that, any such relieving order may be made, without formal complaint being laid at the hearing of any application to enforce the first mentioned order, if both parties are present.

Certificate of imprisonment for bastardy arrears

33. For the purposes of section 54(2) of the Act, when a person is imprisoned in proceedings for the enforcement of an order in any matter of bastardy or of an order enforceable as an order of affiliation, the Superintendent of the prison shall, upon his discharge, send to the Clerk of the Magistrate issuing the commitment a certificate

showing the dates of his reception into prison and discharge therefrom, and also remit therewith any payment received by him under the commitment, and the Clerk of the Magistrate, if payments under the order have been ordered by the Magistrate to be made through an officer of the Court or other person or officer, shall forward such certificate and any payment so remitted to that officer or person.

Application for special case

34. An application to a Magistrate under the Act to state a special case shall be made in writing in the form numbered 68 in the Schedule and the case shall be stated within a month after the date of the application, and after the recognizance shall have been entered into.

Drawing up convictions

35. Formal convictions giving the decisions of the Court shall not be drawn up unless required for an appeal or some other legal purpose. When it is necessary for such purpose to draw up a conviction the same shall be in one of the forms set forth in the Schedule, unless some other form is prescribed by lawful authority for the particular case.

Upon proper notice being given of appeal against any conviction or order of a Magistrate, or of any motion in the High Court for a writ of *mandamus* or *certiorari* in respect of any conviction or order of a Magistrate, and upon payment by the appellant of the appropriate fee and the fee, if any, payable to the Registrar of the High Court, the conviction or order in question shall be drawn up in proper form, and shall be lodged by the Clerk of the Magistrate with the Registrar of the High Court, to be filed by him among the records for the next sitting of that Court. Any exhibits which have been put in at the hearing of the case, and which are still in the possession of the Magistrate's Court when such conviction or order is being transmitted to the Registrar of the High Court, shall be forwarded, together with such conviction or order to the said Registrar:

Provided that, it shall not be necessary to draw up the conviction or order and file it as aforesaid in any case of an appeal by case stated to the Court of Appeal.

Procedure in replevin under section 139 of the Act

36. Where any person desires to replevy any property levied on under a warrant of distress, he shall within the prescribed time apply to a Magistrate, or a Clerk to the Magistrate, in the district in which the property has been seized, for a warrant to replevy, and on such person executing a replevin bond, with such surety or sureties as may be required by the Magistrate, or Clerk to the Magistrate, in the district in which the property has been seized, for a warrant to replevy, and on such person executing a replevin bond, with such surety or sureties as may be required by the Magistrate, or Clerk to the Magistrate, for the due prosecution of an action in replevin without delay, and for the return of the goods if such person should fail in such action, the Magistrate, or Clerk to the Magistrate, shall issue a warrant to the police officer in whose custody are the goods levied on, directing him to restore such goods to such person as aforesaid, and the goods levied on shall then be restored to the person claiming the same.

Miscellaneous applications to Magistrates

37. When any person is authorised under any Act or other law to appeal to any Magistrate against the decision or order of any local or other authority or other person or body, the procedure unless otherwise prescribed by the said Act or other law shall be by way of complaint for an order, and the Act shall apply to all such proceedings.

Notice of conditions of probation

38. The notice required under section 4(3) of the Probation of Offenders Act, shall, before the offender leaves the precincts of the Court, be read over to him (by a probation officer) if practicable, in the presence of a third person with such explanation as may be thought desirable.

Forms

39. The forms in the Schedule, or forms to the like effect, may for the purposes of proceedings under the Act to be used, with such variations as circumstances may require.

SCHEDULE

FORMS

FORM 1.

COMPLAINT WITHOUT OATH

MONTSERRAT

IN THE MAGISTRATE'S COURT

and

Complainant

Defendant

The Complaint of
of
undersigned Magistrate, and complains against

who comes before me, the
of

that the said
the

day of

20

,

at

and the said
prays that the said
may be summoned to answer the said complaint.

Complainant.

Made before me this day
of 20

}

Magistrate.

[Subsidiary]

FORM 2.

INFORMATION ON OATH

MONTSERRAT

IN THE MAGISTRATE'S COURT

The _____ day of _____ 20

The Informant of _____
of _____ in Montserrat, who upon oath
states that _____
of _____ on the _____ day of _____
20 at _____,
Montserrat did _____,

Taken on oath before me the _____ }
day of _____ 20 }

Magistrate.

[Back page]

MONTSERRAT

IN THE MAGISTRATE'S COURT

(_____)

.....

vs

.....

INFORMATION ON OATH

Filed 20 .

FORM 3.

SUMMONS TO DEFENDANT
MONTSERRAT
IN THE MAGISTRATE'S COURT

To
of

Complaint has been made this day by
for that you on the _____ day of _____ 20
at _____ in Montserrat of
did

You are therefore hereby summoned to appear before this Court sitting at
Montserrat on
the _____ day of _____ 20 at the
hour of _____ in the
to answer to the said complaint.

Dated the _____ day of _____ 20 .

Magistrate.
(SEAL)

FORM 4.

CERTIFICATE OF REFUSAL TO ISSUE A SUMMONS
MONTSERRAT
IN THE MAGISTRATE'S COURT

I hereby certify that I refuse to issue a summons against
of _____
on the complaint of _____, _____ of _____,
which has been reduced into writing and is as follows (here set out the allegations
made in the complaint).

Dated this _____ day of _____ 20 .

(Signed)

Magistrate.

[Subsidiary]

FORM 5.

WARRANT IN THE FIRST INSTANCE
MONTSERRAT
IN THE MAGISTRATE'S COURT

TO EACH AND ALL OF THE PEACE OFFICERS OF MONTSERRAT

Information on oath has been laid this day, by

of that hereinafter called the defendant
on the day of 20, at
in Montserrat of did

You are therefore hereby commanded to bring the defendant before this
Court sitting at forthwith to
answer to the said information.

Given under my hand this day of 20 .

Magistrate.
(SEAL)

[Back page]

MONTSERRAT
IN THE MAGISTRATE'S COURT

()
.....
vs
.....

WARRANT OF ARREST.

Issued20

FORM 6.

INFORMATION FOR SEARCH WARRANT

MONTSEERRAT

IN THE MAGISTRATE'S COURT

The information
of _____ in Montserrat,
taken this _____ day of _____ 20 _____, before
the undersigned Magistrate _____ in Montserrat
of _____ who saith that the following goods of him the
said _____ to wit,

were on the _____ day of _____ 20 _____, stolen
from and out of the dwelling house of the said
situate at

Montserrat aforesaid: And that he, this informant, hath probable cause to suspect, and doth
suspect, that the said goods, or part thereof, are concealed in the dwelling-house or
premises in the occupation of
situate at
in Montserrat aforesaid.

Sworn before me the _____ }
day of _____ 20 _____ }

Magistrate.

[Back page]

MONTSEERRAT

IN THE MAGISTRATE'S COURT

(_____)
.....
vs
.....

INFORMATION

Filed20

FORM 7.

NOTICE TO PROSECUTOR OF DAY ON WHICH A PRISONER WILL BE BROUGHT UP

MONTSERRAT

IN THE MAGISTRATE'S COURT

To _____ of _____ that
 Take _____ notice _____ that
 of _____, hereinafter called the defendant,
 has been apprehended and is ordered to be brought up before this Court sitting
 at _____, on the _____ day of _____
 20 _____, at the hour of _____ in the
 noon.

Dated this _____ day of _____ 20 _____.

(SIGNED)

Magistrate.

FORM 10.

**NOTICE TO PARENT OR GUARDIAN OF A CHILD TO APPEAR AND BE HEARD
BEFORE ORDER IS MADE AGAINST SUCH PARENT OR GUARDIAN**

MONTSERRAT

IN THE MAGISTRATE'S COURT

To _____ of _____

Complaint (or information) has been laid this day by

_____ for that A.B.

being a child or young person under 16, on the _____ day of

20 _____, _____ at _____

Montserrat _____ did _____

And upon being informed that you C.D. _____ are
the parent or guardian of the said A.B. _____ you are
hereby notified to appear before this Court sitting at
Montserrat on _____ the _____ day of _____, 20 _____, at the
hour of _____ in the morning to show cause why in the event of an order for the
payment of a fine, damages or costs being made against the said A.B.
you should not be ordered to pay the same.

Dated this _____ day of _____ 20 _____.

(SIGNED)

Magistrate.

FORM 11.

ORDER ON PARENT OR GUARDIAN TO PAY FINE, DAMAGES OR COSTS

MONTSERRAT

IN THE MAGISTRATE'S COURT

Whereas A.B. hereinafter called the defendant, being a child or young person within the meaning of the Magistrate's Court Act and the Juvenile Act, has been this day charged for that he on the day of 20, at Montserrat did .

And whereas the Court is of opinion that the charge is proved.

It is ordered that C.D. the parent (guardian) of the defendant do pay the sum of as (a fine) or (damages) and the sum of for costs (by instalments of for every days, the first instalment to be paid) forthwith (or on the day of 20).

And in default of payment it is ordered that (the sums due under this order be levied by distress and sale of the said parent's (guardian's) goods, and in default of sufficient distress that) the said parent (guardian) be imprisoned in Her Majesty's prison at and kept there for the space of unless the sums (and all costs and charges of the said distress and) commitment and his conveyance to the said prison be sooner paid. (Where security for good behaviour is required, add :—

And it is further ordered that the said C.D. do forthwith to the satisfaction of (this Court) give security in the sum of for the good behaviour of the said defendant for the term of next ensuing).

Given under my hand this day of 20 .

(SIGNED)

Magistrate.

FORM 13

STATEMENT OF ACCUSED

MONTSERRAT

IN THE MAGISTRATE'S COURT

stand charged before the undersigned		Magistrate
this	day of	20 ,
for that	the said	
on the	day of	20 ,
at		Montserrat
of	did	

and the said charge being read to the said
and the witnesses for the prosecution, namely,
being severally examined in presence, the said
is now addressed by me as follows:—

“HAVING HEARD THE EVIDENCE, do you wish to say anything in answer to the charge? You are not obliged to do so unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence at your trial. AND I GIVE YOU CLEARLY TO UNDERSTAND that you have nothing to hope from any promise of favour, and nothing to fear from any threat, that may have been held out to you to induce you to make any admission or confession of your guilt; but whatever you now say may be given in evidence upon your trial, notwithstanding such promise or threat.”

WHEREUPON the said
saith as follows:—

Taken before me at
the day and year above mentioned. }

Magistrate.

FORM 15.

WARRANT TO DETAIN FOR TRIAL

MONTSEERRAT

IN THE MAGISTRATE'S COURT

To each and all of the Peace Officers of Montserrat, and to the Superintendent of Prisons at _____, Montserrat.

_____ of _____
having been committed to take h_____ trial before the Circuit Court to be holden at _____, Montserrat _____, in the month of _____ 20 _____ on a charge of having committed an offence against section _____ of _____ of _____

You, the said Peace Officers, are hereby commanded to take the said _____ and convey h _____ to the said Prison, and deliver h _____ to the Superintendent thereof together with this warrant;

And you, the said Superintendent of the said Prison, are hereby commanded to receive the said _____ into your custody and keep h _____ safely till the holding of the Circuit Court at _____ aforesaid in the month of _____ aforesaid unless he be sooner released by a warrant of deliverance in that behalf, and on that day to bring h _____ before the said Court and to keep h _____ in safe custody until the said Court shall make further order.

Given under my hand this _____ day of _____ 20 _____ .

Magistrate.
(SEAL)

[Back page]

MONTSEERRAT

IN THE MAGISTRATE'S COURT

(_____)

Regina

Versus

.....

WARRANT TO DETAIN FOR TRIAL

FORM 16.

CERTIFICATE OF THE RECEIPT OF A PRISONER

MONTSERRAT

IN THE MAGISTRATE'S COURT

I hereby certify that I have this day received from
 _____, Peace Officer of Montserrat,
 _____, an accused person, together with the warrant
 and all documents relating to the charge against the said
 _____ (or who (set forth the state
 of the prisoner when received into charge if the receipt is by the Superintendent of Prisons)

).

Dated this _____ day of _____ 20 ____ .

(SIGNED)

Magistrate

or

Superintendent of Prisons

FORM 17.

WARRANT OF DELIVERANCE

MONTSEERRAT

IN THE MAGISTRATE'S COURT

To the Superintendent of Prisons at

Whereas _____ of
who has been charged with having committed an offence under section
of Chapter _____ of
and is detained by you under a warrant dated the _____ day of _____ 20____ ,
has this day been admitted to bail:

This is to command you to discharge the said
from custody unless you are ordered to detain him by some other lawful warrant.

Given under my hand this _____ day of _____ 20____ .

Magistrate.
(SEAL)

[Back page]

MONTSEERRAT

IN THE MAGISTRATE'S COURT

(_____)

Regina

Vs

WARRANT OF DELIVERANCE

Dated the.....day of _____ 20____ .

FORM 18.

NOTICE ON APPLICATION FOR BAIL

MONTSERRAT

IN THE MAGISTRATE'S COURT

To the Director of Public Prosecutions, or the officer in charge of the police in Montserrat, or to the Magistrate or Coroner.

This is to give you notice that application will be made on the
day of _____ 20____, at the hour of _____
in the _____ noon, to the Honourable Mr. Justice _____ for
an order that
be admitted to bail, who is charged with having committed an offence under section
of Chapter _____ of
of _____

Dated this _____ day of _____ 20____.

(SIGNED)

(Amended by Act 9 of 2011)

FORM 19.

CONVICTION**MONTERRAT****IN THE MAGISTRATE'S COURT**

the day of
two thousand and
of
hereinafter called the defendant, is this day CONVICTED at the Magistrate's Court for
, aforesaid, sitting at in Montserrat
before the undersigned , Esquire, Magistrate in
Montserrat, of having committed an offence under section of Chapter
of that is to say, for that he the defendant on the
day of two thousand and
at

AND IT IS HEREBY ADJUDGED that the defendant for
said offence be imprisoned in Her Majesty's prison at and there
kept for the space of
(or do pay the sum of \$) and
do also pay the sum of \$ (for
compensation and \$) for costs
(by instalments of \$) for every
days, the first instalments to be paid forthwith,
or on the day of 20).

And in default of payment it is ordered that (the sums due under this adjudication
be levied by distress and sale of the defendant's goods, and, in default of sufficient
distress, that) the defendant be imprisoned in Her Majesty's prison at
and there kept for the space of
(commencing at the termination of the imprisonment before adjudged), unless the said
sums (and all costs and charges of the said (distress and) commitment and of his
conveyance to the said prison) be sooner paid.

Magistrate.
(SEAL)

FORM 20.

INDORSEMENT WHERE SECURITY FOR PAYMENT IS PERMITTED

It is ordered that the defendant be at liberty to give, to the satisfaction of (this
Court), security in the sum of \$, with sureties in the sum of
\$ (each), for the due payment of the said sums as adjudged.

FORM 21.

CONVICTION OF ADULT FOR AN INDICTABLE OFFENCE

MONTSERRAT

IN THE MAGISTRATE'S COURT

The day of 20

of

in the said hereinafter called the defendant being an adult within the meaning of the Magistrate's Court Act, and having consented to be dealt with summarily is this day CONVICTED at the Magistrate's Court for aforesaid, sitting at

, before the undersigned

Esquire, Magistrate in and for the said, of having committed an offence under section of Chapter of that is to say, for that he the defendant on the day of 20, at within the said

AND IT IS HEREBY ADJUDGED that the defendant for said offence be imprisoned in Her Majesty's prison at.....and there kept for the space of

(or do pay the sum of \$), and do also pay the sum of \$ (for compensation and \$) for costs (by instalments of \$ for every days, the first instalment to be paid forthwith, or on the day of 20).

And in default of payment it is ordered that (the sums due under this adjudication be levied by distress and sale of the defendant's goods, and, in default of sufficient distress, that) the defendant be imprisoned in Her Majesty's prison at, and there kept for the space of (commencing at the termination of the imprisonment before adjudged), unless the said sums (and all costs and charges of the said (distress and) commitment and of his conveyance to the said prison) be sooner paid.

(SIGNED)

Magistrate. (SEAL)

FORM 22.

CONVICTION OF CHILD OR YOUNG PERSON FOR INDICTABLE OFFENCE

MONTSERRAT

IN THE MAGISTRATE'S COURT

The _____ day of _____ 20____
of _____
in the said _____ hereinafter called the defendant being a child (or
young person) within the meaning of the Magistrate's Court Act and the Juvenile Act, and
having been charged with committing an offence under section _____ of Chapter
of _____ that is to say, for that he, the defendant on the _____ day
of _____ 20____ at _____ within the
said _____

AND IT IS HEREBY ADJUDGED that the defendant for said offence be
imprisoned in Her Majesty's prison at _____ and there
kept _____ for the space of _____ (or do pay the
sum of \$ _____), and do also pay the sum of \$ _____ (for
compensation and \$ _____) for costs (by instalments of \$ _____ for
every days, the first instalment to be paid forthwith, or on the _____ day of
20____).

And in default of payment it is ordered that (the sums due under this adjudication
be levied by distress and sale of the defendant's goods, and, in default of sufficient
distress, that) the defendant be imprisoned in Her Majesty's prison at _____
, and there kept for the space of _____ (commencing at the termination of
the imprisonment before adjudged), unless the said sums (and all costs and charges of the
said (distress and) commitment and of his conveyance to the said prison) be sooner paid.

(SIGNED)

Magistrate.
(SEAL)

FORM 24.

ORDER OF DISMISSAL

MONTSERRAT

IN THE MAGISTRATE'S COURT

A.B., hereinafter called the defendant (being an adult or juvenile, or young person, or child within the meaning of the Magistrate's Court Act and the Juvenile Act), is charged for that he/she on the day of 20 , at in the said did (and the defendant having consented to be dealt with summarily) *or* (the parent or guardian of the defendant not objecting to the defendant being dealt with summarily), and the Court thinking that the charge is proved, but being of opinion that it is inexpedient to inflict any punishment:

It is therefore ordered that the information (or charge) be dismissed:

(Add if costs are ordered): And it is ordered that the defendant do pay to the sum of \$ as damages for injury (or compensation for loss); and do further pay to the Clerk of the said Court the sum of \$ for costs (by instalments of for every days, the first instalment to be paid) forthwith (or on the day of), and, in default of payment it is ordered that (the said sums be levied by distress and sale of the defendant's goods; and in default of sufficient distress, that) the defendant be imprisoned in Her Majesty's prison at (or detained in police custody at) for the space of unless the said sums (and all costs and charges of the (said distress and) commitment) be sooner paid.

Magistrate.

FORM 25.

ORDER OF DISCHARGE ON RECOGNIZANCE

MONTSEERRAT

IN THE MAGISTRATE'S COURT

A.B., hereinafter called the defendant (being an adult or juvenile or a young person, or a child within the meaning of the Magistrate's Court Act and the Juvenile Act) is charged for that he/she, on the day of , at in Montserrat did and (the defendant having consented to be dealt with summarily) *or* (the parent or guardian of the defendant not objecting to the defendant being dealt with summarily and) the Court thinking that the charge is proved, but being of opinion that it is expedient to release the defendant on probation):

It is therefore ordered that the defendant be discharged conditionally on his/her entering into a recognizance in the sum of \$ with surety in the sum of \$ each), subject to the following conditions—

1. That he/she be of good behaviour and appear before the Court for conviction and sentence when called on at any time during the period of now next ensuing;
2. That he/she do not associate with ;
3. That he/she do not frequent ;
4. That he/she do lead an honest and industrious life;
5. That he/she do abstain from intoxicating liquor;
6. That he/she do reside at ;
7. (*Any special condition*).

(*If costs are ordered, add*): And it is further ordered that the defendant do pay to the sum of \$ as damages for injury (or compensation for loss); and do further pay to the Clerk of the said Court the sum of \$ for costs (by instalments of for every days, the first instalment to be paid) forthwith (or on the day of), and, in default of payment it is ordered that (the said sums be levied by distress and sale of the defendant's goods; and in default of sufficient distress, that) the defendant be imprisoned in Her Majesty's prison at (or detained in police custody at) for the space of unless the said sums (and all costs and charges of the (said distress and) commitment) be sooner paid.

Magistrate.

Majesty's prison at _____ (or detained in _____) for the space _____ of _____ unless the said sums (and all costs and charges of the (said distress and) commitment be sooner paid.

Magistrate.

FORM 27.

RECOGNIZANCE

MONTSERRAT

IN THE MAGISTRATE'S COURT

The under-mentioned persons severally acknowledge themselves to owe to our Sovereign Lady the Queen the several sums following, namely:

_____ of _____, as principal, the sum of \$ _____, and _____ of _____, as surety and _____ of _____, the sum of \$ _____ (each) to be levied on their several goods, lands, and tenements if the said principal fail in the condition hereon endorsed.

(SIGNED where not taken orally)—

A.B.
G.H.
J.K.

Taken (orally) before me this _____ day of _____ 20 _____.

Magistrate.

CONDITION.

The condition of the above recognizance is such that if the above-bound principal shall be of good behaviour and appear before the Magistrate's Court sitting at _____ for conviction and sentence when called on at any time during the period of _____ now next ensuing, and shall not associate with _____ nor frequent _____ and shall lead an honest industrious life, and abstain from intoxicating liquor, and reside at _____, and shall (INSERT ANY SPECIAL CONDITION). _____ (and furthermore during the said period shall be under the supervision of _____ (hereinafter called the Supervisor), and, for the purpose of securing such supervision, shall receive at his/her own home visits from the said Supervisor weekly, or at such other intervals as the Supervisor may think fit, and shall, if so required by the Supervisor, attend at his/her own home for the purpose of such visits at times fixed by the Supervisor, and shall answer truly all questions put to him/her by the Supervisor with regard to his/her conduct, employment, or residence, and shall report forthwith to the Supervisor any change of his/her residence or place of employment); then the said recognizance shall be void, but otherwise shall remain in full force.

FORM 28.

NOTICE TO DEFENDANT OF TERMS OF RECOGNIZANCE ON PROBATION

MONTSEERRAT

IN THE MAGISTRATE'S COURT

Take notice that you _____, are bound for the period of _____ years in the sum of \$ _____ (and _____ and _____, your surety in the sum of \$ _____ (each), by recognizance entered into this day before the said Court, of which the following are the conditions:—

1. That you be of good behaviour and appear at this Court for conviction and sentence when called on;
2. That you do not associate with _____ ;
3. That you do not frequent _____ ;
4. That you lead an honest and industrious life;
5. That you abstain from intoxicating liquor;
6. That you reside at _____ ;
7. That you be under the supervision of _____ ;
(hereinafter called the Supervisor and observe the following conditions for securing such supervision, namely:—
 - (a) That you receive at your own home visits from the Supervisor weekly, or at such other intervals as the Supervisor may think fit; and, if so required by the Supervisor, attend at your home for the purpose of such visits at times fixed by the Supervisor; and answer truly all questions put to you by the Supervisor with regard to your conduct, employment, or residence; and
 - (b) That you report forthwith to the Supervisor any change of your residence or place of employment; and
8. *(Any special condition).*

If you fail to observe any of the conditions of your recognizance you (and your surety _____) will thereby forfeit the abovementioned sums, and you will further be liable to be apprehended and brought before this Court, and to be convicted and sentenced for the offence which was this day proved against you.

Dated the _____ day of _____ 20 _____ .

Magistrate.

FORM 29.

ORDER BY INDORSEMENT SUBSTITUTING A NEW SUPERVISOR

MONTSERRAT

IN THE MAGISTRATE'S COURT

The above-named _____ having been
relieved of his duties as Supervisor (or having died), the aforesaid Court doth hereby
substitute _____ for the
said _____ to perform the duties of Supervisor under the
said order.

Magistrate.

FORM 30.

NOTICE TO DEFENDANT OF SUBSTITUTION OF NEW SUPERVISOR

MONTSERRAT

IN THE MAGISTRATE'S COURT

Take notice that
has been substituted by (or with the approval of) the aforesaid Court to perform the duties
of Supervisor in your case in place of _____

_____, and that the name of the said
is substituted for that of the
said _____ as from this date wherever the name
of the said _____ occurs in the order
made by the aforesaid Court in your case on the _____ day of
20_____, and in the recognizance entered into by you thereupon.

Dated the _____ day of _____ 20____.

Magistrate.

FORM 31.

**SUMMONS TO DEFENDANT ON APPLICATION TO VARY CONDITIONS
OF RECOGNIZANCE**

MONTSERRAT

IN THE MAGISTRATE'S COURT

To A.B.

You are hereby summoned to appear before the Magistrate's Court sitting at _____ on _____ 20____, at the _____ day of _____ in the _____ hour of _____, at the _____ hearing of an application by _____ Supervisor, to vary the terms or conditions of the recognizance entered into by you (and _____ and _____) before the said Court, on _____ as your surety _____) before the said Court, on _____ the _____ day of _____, under the Probation of Offenders Act.

Dated the _____ day of _____ 20____.

Magistrate.

FORM 32.

**NOTICE OF DISCHARGE OR VARIATION OF CONDITIONS OF RECOGNIZANCE
OF PROBATIONER**

MONTSERRAT

IN THE MAGISTRATE'S COURT

To _____ of _____

Take notice that (the conditions of) the recognizance entered into by you (and _____ and _____, as your surety _____) before the Magistrate's Court sitting at _____ on the _____ day of _____ 20____, have (or has) this day, upon the application of _____ Supervisor, been (discharged) or varied by the said Court, (and that the following are now the conditions to which you are subject under the said recognizance):

If you fail to observe any of the conditions of your recognizance, you and your (present) surety _____ will thereby forfeit the abovementioned sums, and you will further be liable to be apprehended and brought before this Court, and to be convicted and sentenced for the offence proved to the Court when the probation order was made.

Dated the _____ day of _____ 20____.

Magistrate.

FORM 33.

INFORMATION FOR BREACH OF RECOGNIZANCE

MONTSERRAT

IN THE MAGISTRATE'S COURT

The information of _____, who upon oath
(or affirmation) states :

A.B., _____ on the _____ day of _____ 20____, by a
recognizance entered into by him (with
and _____ as surety _____) under the Probation of
Offenders Act, was bound to appear before this Court for conviction and sentence when
called on at any time during the period of _____ years, and was further bound by the
said recognizance (*here state one condition which is broken*).

And the said A.B. did fail on the _____ day of _____ 20____, to observe
the said last-named condition (and divers other conditions) of his recognizance, inasmuch
as

Taken and sworn (or affirmed) before me.

Magistrate.

FORM 34.

SUMMONS FOR BREACH OF RECOGNIZANCE

MONTSERRAT

IN THE MAGISTRATE'S COURT

To A.B., _____

Information on oath (or affirmation) has been laid this day by
_____ Supervisor, for that you on the _____ day
of _____, before the under-mentioned Magistrate's
Court, were bound by a recognizance entered into by you under the Probation of Offenders
Act, to appear before the said Court for conviction and sentence when called on at any
time during the period of _____ years, and were further bound by the said
recognizance _____ and that you did fail on the _____ day
of _____ 20____, to observe the last-named condition (and
divers other conditions) of your said recognizance.

You are therefore hereby summoned to appear before the Magistrate's Court
sitting at _____ on _____
the _____ day of _____ at the hour of _____
in the _____ noon, to answer to the said information.

Dated _____ day of _____ 20____.

Magistrate.

FORM 35.

WARRANT FOR BREACH OF RECOGNIZANCE

MONTSERRAT

IN THE MAGISTRATE'S COURT

To each and all of the constables of

Information on oath (or affirmation) has been laid this day (or on the
day of) by
that A.B., hereinafter called the defendant, having on the day
of , before the Magistrate's Court sitting at
entered into a recognizance under the Probation of Offenders Act, by which he/she was
bound to appear before the said Court for conviction and sentence when called on at any
time during the period of years, and further to did, on
the day of 20 , fail to observe the last-named
condition (and divers other conditions) of his/her said recognizance:

You are therefore hereby commanded to bring the said defendant before the
Magistrate's Court sitting at
forthwith, to answer to the said information.

Dated the day of 20 .

Magistrate.

FORM 36.

CONVICTION AFTER PROBATION

MONTSERRAT

IN THE MAGISTRATE'S COURT

A.B., hereinafter called the defendant (being an adult or a juvenile or
a young person, or a child within the meaning of the Magistrate's Court Act and the
Juvenile Act), was on the day of charged for that
he/she on the day of in Montserrat did

And (the defendant having consented to be dealt with summarily), or (the parent
or guardian of the defendant not objecting to the defendant being dealt with summarily
and) the Court thought the charge was proved, but, pursuant to the Probation of Offenders
Act, did make an order whereby the defendant was discharged conditionally on entering
into a recognizance to be of good behaviour and to appear for conviction and sentence for
the said offence when called upon at any time during the period of from
the date of such order.

FORM 38.

ORDER FOR OTHER MATTERS

MONTSERRAT

IN THE MAGISTRATE'S COURT

The _____ day of _____ 20 ____ .
_____ having made a complaint that
_____ hereinafter called the defendant,
on the _____ day of _____ 20 ____ ,
at _____ ,
did _____

On hearing the said complaint, it is ordered that the defendant do

(It imprisonment is ordered, add: And it is adjudged that if the defendant neglect or refuse to obey this order, he be imprisoned in Her Majesty's prison at _____ , and there kept (to _____ for the space of _____ (or unless the said order be sooner obeyed))

(It costs are ordered, add: And it is ordered that the defendant pay to the said _____ the sum of \$ _____ for costs (by instalments of \$ _____ for every _____ days, the first instalment to be paid) forthwith (or on the _____ day of _____ 20 ____).)

And in default of payment, it is ordered that the sums due be levied by distress and sale of the defendant's goods, and in default of sufficient distress, that the defendant be imprisoned in the said prison, and there kept for the space of _____ , commencing at the termination of the imprisonment before adjudged, unless the said sum (and all costs and charges of the (said distress and) commitment, and of his conveyance to the said prison) be sooner paid.

(SIGNED)

Magistrate.
(SEAL)

FORM 39.

ORDER AT DISMISSAL

MONTSERRAT

IN THE MAGISTRATE'S COURT

The _____ day of _____ 20____ .
 Information (or complaint) having been laid (or made) by _____
 against _____
 hereinafter called the defendant, charging him with having committed an offence on
 the _____ day of _____ 20____ , at _____ ,
 under section _____ of Chapter _____ of _____

This Court having heard and determined the said information (or complaint) doth
 dismiss the same. (But doth order the defendant to pay to the informant (or complainant)
 the sum of \$ _____ for damages forthwith (or on the
 day of _____ 20____).

(If costs are ordered, add: And it is hereby ordered that the informant
 (or complainant) pay to the defendant the sum of \$ _____
 for costs forthwith (or on the _____ day of _____ 20____)).

And in default of payment, it is ordered that the sums due be levied by
 distress and sale of the informant's (or complainant's) goods, and in default of
 sufficient distress that the informant (or complainant) be imprisoned in Her Majesty's
 prison at _____ ,
 and there kept for the space of _____ , unless the said sums (and all costs and
 charges of the (said distress and) commitment and of his conveyance to the said prison) be
 sooner paid.

(SIGNED)

Magistrate.
 (SEAL)

FORM 40.

CERTIFICATE OF DISMISSAL
MONTSERRAT
IN THE MAGISTRATE'S COURT

I hereby certify that a charge made against
of _____, for that he on the _____ day of
20____, at _____
did commit an offence under section _____ of Chapter
of _____ was this day heard and determined by me, and dismissed.

Dated this _____ day of _____ 20____.

Magistrate.

FORM 41.

COMMITMENT FOR DEFAULT
MONTSERRAT
IN THE MAGISTRATE'S COURT

To each and all of the Peace Officers of Montserrat, and to the Superintendent of Prisons at _____ Montserrat, hereinafter called the defendant, having been _____ on the day of _____ 20 _____ ordered to pay the sum of \$ _____ and the further sum of \$ _____ for costs under section _____ of Chapter _____ of _____ ; and default having been made in payment IT IS ORDERED that the defendant be imprisoned in Her Majesty's Prison aforesaid, and kept _____ for the space of _____ unless the said sums and all costs and charges of _____ commitment and of _____ conveyance to the said prison be sooner paid.

And you the said Peace Officers, are hereby commanded to take the defendant and convey _____ to the said prison, and there deliver to the said Superintendent thereof, together with this warrant. And you the Superintendent of the said prison to receive the defendant into your custody and keep _____ to _____ for the space _____ of _____ unless the said sums and all charges _____ of _____ commitment and of _____ conveyance to the said prison be sooner paid.

Given under my hand this _____ day of _____ 20 _____ .

Magistrate.
(SEAL)

FORM 42.

COMMITMENT PENDING RETURN TO WARRANT OF DISTRESS

MONTSERRAT

IN THE MAGISTRATE'S COURT

To each and all of the Peace Officers of Montserrat, and to the Superintendent of Prisons at _____ hereinafter called the defendant, was this day (or on the _____ day of _____ 20____), before this Court sitting at _____, convicted of an offence against section _____ of Chapter _____ (or ordered),
(reciting order) :

And default having been made in payment, a warrant of distress was issued, but no return has been made thereto:

You, the said Peace Officers, are hereby commanded to convey the defendant to the said prison, and there deliver him to the Superintendent thereof, together with this warrant. And you, the Superintendent of the said prison, to receive the defendant into your custody and keep him until the _____ day of _____ 20____, and on that day to convey him before this Court aforesaid, at the hour of _____ in the _____ noon (unless he previously enters into a recognizance in the sum of \$ _____, with _____ surety in the sum of \$ _____ (each), conditioned for his appearance on that day, or pays the sum of \$ _____, being the amount payable under such warrant).

Given under my hand this _____ day of _____ 20____.

(SIGNED)

Magistrate.
(SEAL)

FORM 44.

NOTICE TO ATTACH A DEBT
MONTERRAT
IN THE MAGISTRATE'S COURT

To _____ of _____

It having been alleged that you are indebted to _____ of _____ in the sum of \$ _____, and the said _____ having been ordered by this Court to pay a fine of \$ _____, and costs \$ _____, in all the sum of \$ _____ (or as the case may be): This is to command you to appear before this Court sitting at _____, on the _____ day of _____ 20____, at the hour of _____ in the _____ noon, to show cause why you should not pay to this Court so much of the said sum due by you to the said _____ as is sufficient to satisfy the said sum of \$ _____ payable by the said _____ as aforesaid. And you are hereby further commanded not to pay over such sum of \$ _____ (or so much of the said sum of \$ _____ as amounts to the said sum of \$ _____) to any person until this Court shall further order.

Dated this _____ day of _____ 20____.

(SIGNED)

Magistrate.

FORM 45.

ORDER ON ATTACHMENT OF A DEBT
MONTERRAT
IN THE MAGISTRATE'S COURT

_____ of _____ having been ordered to pay a fine \$ _____, and \$ _____ costs, and it being found that _____ owes to the said _____, and the said _____ having been heard (or not having appeared): It is hereby ordered that the said _____ pay to this Court the sum of \$ _____, in satisfaction of the sum of \$ _____ payable by the said _____.

Given under my hand this _____ day of _____ 20____.

(SIGNED)

Magistrate.
(SEAL)

FORM 46.

SUMMONS IN DESERTION

MONTSERRAT

IN THE MAGISTRATE'S COURT

To _____ of
in Montserrat of

Application having been this day made to me the undersigned Magistrate,
by _____, your wife, who alleges she has been deserted
by you.

You are therefore hereby summoned to appear before this Court sitting
at _____ in the said _____ on the _____ day
of _____ 20_____, at 9 a.m, to show cause why you should not be
ordered to pay to her such sum or sums as to the Court seems meet for the support of
herself and her family.

Dated this _____ day of _____ 20_____.

Magistrate.
(SEAL)

NOTE— If you neglect to appear at the Court as above stated the Magistrate,
upon proof that this summons has been duly served upon you, or left at your last place of
abode, may proceed, if he thinks fit, to make an order upon you to pay a weekly sum to
your said wife, and other sums for costs and expenses.

FORM 47.

SUMMONS IN BASTARDY

MONTSERRAT

IN THE MAGISTRATE'S COURT

To _____ of _____
In Montserrat of _____

Application having been this day made to me, the undersigned Magistrate,
by, _____
a single woman residing at _____
in Montserrat who has been delivered of a bastard child on the _____ day of _____
20 _____, in Montserrat of which child she on her oath alleges you to be the father:

You are therefore hereby summoned to appear before this Court sitting
at _____ on the _____ day of _____, 20 _____,
at 9 a.m., to show cause why you should not be adjudged to be the putative father of the
said child, and ordered to pay towards the maintenance thereof such sum or sums as to the
Court seems meet.

Dated this _____ day of _____ 20 _____.

Magistrate.
(SEAL)

NOTE—If you neglect to appear at the Court as above stated, the Magistrate
upon proof that this summons has been duly served upon you or left at your last place of
abode may proceed, if he thinks fit, to make an order upon you as the putative father of the
child above referred to, to pay a weekly sum to the said mother for its maintenance and
other sums for costs and expenses.

FORM 48.

BASTARDY (ARREARS)

MONTSERRAT

IN THE MAGISTRATE'S COURT

To

Complaint has been made this day by
for that you have unlawfully neglected to obey a certain order made by this Court on
the day of 20 , whereby you were adjudged to be the
putative father of a certain bastard child born of her body, and ordered to pay to her for
maintenance thereof the sum of per week; and that there is
now due to her from you in respect of the said order the sum of \$ being
arrears of weeks, payments, against the form of the Act in such case made
and provided:

You are therefore hereby summoned to appear before this Court sitting
at in the said on
the day of 20 at the hour of 9 a.m., to answer to the said
complaint.

Dated the day of 20 .

Magistrate.
(SEAL)

FORM 50.

ORDER TO VARY OR DISCHARGE ORDER IN DESERTION

MONTSERRAT

IN THE MAGISTRATE'S COURT

v.

The day of 20

On hearing the application of
it is ordered that the order made herein on the day of 20 ,
that the said
should pay to the said the sum of \$
on (Mon)day, the day of 20 , and on
every succeeding Mon(day) be discharged [or varied as follows, that is to say that the
said
shall pay to the said the sum
of \$ on (Mon)day, the day of
20 , and on every succeeding (Mon)day until this order is discharged or varied].

(SIGNED)

Magistrate.
(SEAL)

FORM 51.

ORDER FOR CUSTODY OF BASTARD

MONTSERRAT

IN THE MAGISTRATE'S COURT

The day of 20

It having been shown to this Court that
the mother of a certain bastard child of which
was adjudged to be the putative father, on the day of
20 , is dead (or is of unsound mind, or confined in Her Majesty's prison
at), it is ordered that ,
of shall have the custody of such bastard child (or) and
having on the day of 20 , been appointed by
this Court to have the custody of the said bastard child, such order as aforesaid is hereby
revoked, and it is ordered that shall have the custody of the said
bastard child.

(SIGNED)

Magistrate.
(SEAL)

FORM 52.

REFERENCE IN SALVAGE DISPUTE

An agreement made the _____ day of _____, 20____, between _____, hereinafter called the owners, of the one part, and _____, hereinafter called the salvors, of the other part

Whereas a dispute has arisen in Montserrat between the owners and the salvors as to the amount of salvage payable to the said salvors in respect of salvage services performed by the said salvors on the _____ day of _____, 20____, for the “ _____ ” (or for certain cargo ex “ _____ ” *or as the case may be*).

And whereas the said owners and salvors cannot agree as to the said dispute;
And whereas the sum claimed by the said salvors does not exceed \$240;
And whereas the matter in dispute is as follows:—

(Here set out the contention on behalf of the owners and of the salvors.)

Now it is hereby agreed by and between the said owners and salvors that the said matter in dispute shall be referred to the arbitration of _____, the Magistrate for _____, and it is further agreed that the costs of the said arbitration shall be in the discretion of the said Magistrate (*or as the case may be*).

(SIGNED)

Lodged in Court this _____ day of _____, 20____.

(SIGNED)

*Magistrate, or
Clerk to the Magistrate*

INDORSEMENT OF EXTENSION OF TIME

I hereby extend the time for the making of my award herein until the _____ day of _____, 20____.

(SIGNED)

Magistrate.

FORM 53.

AWARD IN SALVAGE CLAIM

MONTSEERRAT

IN THE MAGISTRATE'S COURT

In the matter of a salvage claim

Between

(hereinafter called the owners)

and

(hereinafter called the salvors)

Whereas a dispute has arisen in Montserrat between _____, the owners, and _____, the salvors, as to the amount of salvage, payable to the said salvors in respect of salvage services performed by the said salvors on the _____ day of _____ 20____, for the “ _____ ” (or _____ for certain cargo ex “ _____ ” *or as the case may be*). And whereas the said owners and salvors, being unable to agree as to the said dispute, and the sum claimed by the said salvors not exceeding \$240, have agreed by an agreement dated the _____ day of _____ 20____, to refer the said matter in dispute to the arbitration of me, the undersigned Magistrate for _____. And whereas it was further agreed that the costs of the said arbitration should be in my discretion (*or as the case may be*). And whereas on the _____ day of _____ 20____, by writing under my hand I enlarged the time for the making of my award until the _____ day of _____ 20____.

Now I, the said undersigned Magistrate for _____ do hereby make and publish this my award as follows:—

(Here set out the particulars of the award)

(And I order the said _____ to pay the costs of the said _____.)

Given under my hand this _____ day of _____ 20____.

(SIGNED)

Magistrate.

FORM 54.

**TRANSMISSION TO SUPREME COURT OF COPY
OF PROCEEDINGS IN SALVAGE CLAIM**

MONTSERRAT

IN THE MAGISTRATE'S COURT

To the Registrar of the High Court in the Montserrat Circuit

In the matter of the claim of _____
of _____, for salvage in respect of the
“ _____ ” (or of the cargo ex “ _____ ” (*or as the
case may be*)).

Herewith I have the honour to transmit to you, under the provisions of the
Magistrate's Court Act, the following documents:—

1. A certified copy of the proceedings had before me herein;
2. A certified copy of the award made by me herein ;
3. A certificate of the gross value of the respecting which salvage is claimed.

Dated this _____ day of _____ 20 _____ .

(SIGNED)

Magistrate.

FORM 55.

SUMMONS TO APPEAR

MONTSEERRAT

IN THE MAGISTRATE'S COURT

(CIVIL SIDE)

Suit No.. of 20 .

Between { and Plaintiff
Defendant.

To the defendant herein:

You are hereby summoned to appear before this Court, sitting at
, on the day of
20 , at the hour of o'clock in the noon to answer the
plaintiff's claim, particulars of which are hereto annexed.

And Take Notice that if you fail to appear as aforesaid, the Court may proceed in
your absence to judgment and execution.

Dated this day of 20 .

Magistrate.
(SEAL)

PARTICULARS OF CLAIM

MONTSERRAT

This summons was served upon the within
named

THE PLAINTIFF CLAIMS

by
.....

at on
the day of 20.....

IN THE MAGISTRATE'S COURT
(CIVIL SIDE)

By Suit No. of 20

.....

v.

.....

Bailiff

SUMMONS TO APPEAR

Sworn to this day of

..... 20 Before me

Summons

Service

Mileage

Magistrate

Total

FORM 56.

SUMMONS TO WITNESS

MONTSERRAT

IN THE MAGISTRATE'S COURT

(CIVIL SIDE)

Suit No.
of 20 .

{

Between
AndPlaintiff,
Defendant.

To

of

You are hereby required to attend before this Court, sitting at
 on the day of , 20 ,
 at the hour of in the noon, to give evidence in the above cause on
 behalf of the

Dated the day of , 20 .

Magistrate.

MONTSERRAT

IN THE MAGISTRATE'S COURT
(CIVIL SIDE)

No. of

..... Plaintiff

and

..... Defendant

Bailiff:

SUMMONS TO WITNESS

To appear the, 20.....

FEEES PAID

\$ c.

Summons

Service

Total \$

[Back]

This Summons was served by me on
the

within-named Witness

by

at

on the day of

....., 20.....

FORM 57.

JUDGMENT

MONTSERRAT

IN THE MAGISTRATE'S COURT

(CIVIL SIDE)

Between _____, Plaintiff;
 (Address,
 Description).

and

_____, Defendant
 (Address,
 Description)

It is adjudged that the _____ pay to
 the _____ (the sum of \$ _____
 and) the sum of \$ _____ for costs (by instalments of \$ _____
 for every _____ days, the first instalment to be paid) forthwith (*or* on the _____ day
 of _____ 20 _____), and in default of payment, that the sum due be
 levied by seizure and sale of the _____ goods.

Dated this _____ day of _____ 20 _____.

(SIGNED)

Magistrate.

FORM 58.

JUDGMENT SUMMONS
MONTSERRAT
IN THE MAGISTRATE'S COURT
(CIVIL SIDE)

Suit No. _____ of 20 ____ .

Between { _____ and _____
Plaintiff
Defendant.

To the above named defendant *or* plaintiff.

The plaintiff or defendant obtained a judgment against you the above named defendant or plaintiff, before this Court on the _____ day of _____, 20____ for the payment of \$ _____.

And you, having made default in payment of the said sum, are hereby summoned to appear personally before this Court sitting at _____ in _____, on the _____ day of _____, 20____, at the hour of _____ in the _____ noon to be examined on oath touching the means you have, or have had since the date of the judgment, to satisfy the sum payable in pursuance of the said judgment, and also to show cause why you should not be committed to prison for such default.

Dated the _____ day of _____, 20____ .

Magistrate.

	\$	c.
Amount of judgment and costs		
Costs of distress against the goods		
Deduct { Amount paid		
{ Instalments which were not { required to have been paid { before the date of the summons		
Sum payable		
Costs of this Summons		
Total amount due up to date		

[Back]

This summons was duly served upon the within
named
..... by.....

MONTSERRAT

IN THE MAGISTRATE'S COURT
(CIVIL SIDE)

..... a true Copy
thereof at.....
..... on the
day of 20.....

Suit No. of 20.....

By me

v.

Bailiff

JUDGMENT SUMMONS

Sworn to this day
of 20.....

Before me

Magistrate

[Back]

MONTSERRAT

IN THE MAGISTRATE'S COURT
(CIVIL SIDE)

Suit No. of 20.....

vs.

ORDER OF COMMITMENT

By virtue of an order I
 arrested the within named
 at on the
 day of 20.....
 at o'clock in the noon,
 and conveyed to the Prison
 at the of and
 there delivered to the
 Superintendent thereof, the said
 being then
 BAILIFF

Received at the Prison at at
 o'clock m. on the
 day of 20.....

Superintendent of Prisons

FORM 60.

SUMMONS TO DEFAULTING DEBTOR

MONTSEERRAT

IN THE MAGISTRATE'S COURT

(CIVIL SIDE)

Suit No. _____ of 20 ____ .

Between { _____ and _____
Plaintiff
Defendant.

To the above named Defendant.

WHEREAS the Plaintiff obtained an Order against you the above-named Defendant before this Court on the _____ day of _____ 20 __, for the payment of \$ _____ (debt or damages and costs) by instalments of \$ _____ the first of the said instalments to be paid on the _____ day of _____ 20 ____ .

AND you having made default in payment of \$ _____ payable in pursuance of the said Order, are hereby summoned to appear personally before this Court sitting at _____ in _____, on the _____ day of _____ 20 __, at the hour of _____ in the forenoon to be examined on oath touching the means you have, or have had since the date of the said Order to satisfy the sum payable in pursuance of the said Order, AND ALSO to show cause why you should not be committed to prison for such default.

Dated this _____ day of _____ 20 ____ .

Magistrate.

FORM 62.

SUMMONS TO VARY ETC. ORDER FOR PAYMENTS BY INSTALMENTS

MONTSERRAT

IN THE MAGISTRATE'S COURT

To _____ of _____

Complaint has this day been made by C.D.
(hereinafter called the complainant) that by an Order duly made on the
day of _____ 20 _____ under the
Act by the Magistrate's Court sitting at _____,
in Montserrat, you were ordered

[state shortly the terms of the original Order and mention any subsequent Order and the effect thereof].

And the complainant applies that the [payments under the] said order should be varied or altered by an order requiring _____ on the ground that _____.

You are hereby summoned to appear before this Court sitting at _____ on the _____ day of _____ 20 _____, at _____ o'clock in the _____ noon to answer the said complaint.

Dated this _____ day of _____ 20 _____.

Magistrate.

FORM 64.

CERTIFICATE FOR RELEASE OF JUDGMENT DEBTOR

MONTserrat

IN THE MAGISTRATE'S COURT

(CIVIL SIDE)

, Plaintiff

Between
(Address,
Description.)

and

, Defendant.

(Address,
Description)

To the Superintendent of Prisons at

I hereby certify that the defendant (or plaintiff) who was committed to your custody by an Order of commitment, dated the day of , 20 , has paid the sum mentioned in the said Order as that upon payment of which he would be discharged, and may in respect of the said Order be forthwith discharged.

Dated this day of 20 .

(SIGNED)

Magistrate.

FORM 65.

WRIT OF EXECUTION

MONTSERRAT

IN THE MAGISTRATE'S COURT

(CIVIL SIDE)

Suit No. _____ of 20 ____ .

Between { _____ and _____ Plaintiff
 Defendant.

To _____, the

Bailiff of this Court:

On the _____ day of _____ 20____, it was ordered by this Court that the defendant *or* plaintiff should pay to the plaintiff *or* defendant the sum of \$ _____ and \$ _____, costs forthwith (*or* on the _____ day of 20____); and in default the sums due thereunder should be levied by distress and sale of the defendant's *or* plaintiff's goods; and default having been made, you are hereby commanded forthwith to seize the goods of the said defendant *or* plaintiff (except the wearing apparel and bedding of him and his family, and, to the value of \$24, the tools and implements of his trade); and if within the space of five clear days next after the making of such seizure, the sum stated at the foot of this Writ, to be levied, together with the reasonable charges of executing this Writ, be not paid then to sell, the said goods, and pay the money arising therefrom to this Court, and if no such goods can be found, to certify the same to this Court.

Dated the _____ day of _____ 20____.

Magistrate.

Amount adjudged \$ _____

Paid _____

Remaining due _____

Costs of issuing this writ _____

Total amount to be levied \$ _____

MONTSERRAT

20.....

Lodged this day of
20 at o'clock a.m./p.m.

To the Bailiff:

Levy for the within mentioned
sum of \$

IN THE MAGISTRATE'S COURT
(CIVIL SIDE)

..... Bailiff

..... Plaintiff

And

..... Defendant

EXECUTION

Amount adjudged \$

Paid

Remaining due

Costs of Execution

Total to be levied \$

Dated the day of 20

FORM 66.

NOTICE OF APPEAL

MONTSERRAT

IN THE MAGISTRATE'S COURT

Between	{	and	Appellant; Defendant.
---------	---	-----	--------------------------

To

Take notice that I, the undersigned
of _____, do intend to enter and prosecute an appeal
to the Court of Appeal, to be holden in the month of _____, 20____, against a
certain Order (conviction or judgment) bearing date the _____ day of
_____, 20____, and made by the Magistrate for

And that the reasons for my appeal are as follows:—

(Here set forth the reasons on which the appellant relies.)

Dated this _____ day of _____, 20____.

(SIGNED)

FORM 67.

RECOGNIZANCE TO PROSECUTE APPEAL

MONTSEERRAT

IN THE MAGISTRATE'S COURT

BE IT REMEMBERED that on the _____ day of _____
20____, _____ of _____
_____ and _____ of _____
_____ and _____ of _____
_____ personally came before me the under-signed
Magistrate for the said _____, and severally acknowledged themselves to owe to
Our Sovereign Lady the Queen the several sums following, that is to say, the said
_____ the sum of _____
dollars and the said _____ the sum of _____ dollars,
and the said _____ the sum of _____ dollars, each of
good and lawful money of Montserrat, to be made and levied of their several goods and
chattels, lands and tenements, respectively to the use of Our said Lady the Queen Her heirs
and successors, if he the said _____

_____ shall fail in the condition
hereunder written.

TAKEN AND ACKNOWLEDGED the day and year first above mentioned at
_____ in the said _____

Before me.

Magistrate.

THE CONDITION of the above written recognizance is such that if the
said _____ shall enter and
prosecute an appeal to the Court of Appeal against a certain _____
bearing date the said _____ day of _____, 20____, and
made by me the said Magistrate.

AND FURTHER that if he the said _____
shall abide by and duly perform the Order of the Court to be made upon the trial of such
appeal, then the said recognizance to be void, or else to remain in full force and virtue.

Magistrate.

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MONTSERRAT

()

IN THE MAGISTRATE'S COURT

.....

vs

.....

RECOGNIZANCE TO
PROSECUTE APPEAL.

FORM 68.

APPLICATION TO MAGISTRATE TO STATE A SPECIAL CASE

MONTSERRAT

IN THE MAGISTRATE'S COURT

To

Magistrate.

Whereas an information (*or* complaint) wherein A.B. was informant (*or* complainant) and I the undersigned was defendant (*or* as the case may be) was heard before and determined by you, the said Magistrate in Montserrat on the _____ day of _____ 20____. And whereas I the undersigned am dissatisfied with your determination upon the hearing of the said information (*or* complaint) as being erroneous in point of law (*or* as being in excess of jurisdiction): Now, therefore, I the undersigned pursuant to the Magistrate's Court Act do apply to you the said Magistrate and do hereby require you to state and sign a case setting forth the facts and grounds of your said determination, for the opinion thereon of the Court of Appeal.

Dated this _____ day of _____ 20____.

(Signed) _____ of _____
Applicant _____ *Place of Abode*

FORM 69.

RECEIPT FOR DEPOSIT OF MONEY AS SECURITY FOR COSTS OF APPEAL

MONTSERRAT

IN THE MAGISTRATE'S COURT

Received from _____, of _____, of _____, the sum of \$ _____, which is this day deposited as security, that _____, will prosecute an appeal from the conviction (or Order or judgment), dated the _____ day of _____, 20____, of _____, Magistrate for the said _____, and will abide the judgment thereon of the Court to which the appeal is made, and pay any costs awarded against him by such Court.

This _____ day of _____, 20____.

(SIGNED)

Magistrate.

[Back page]

MONTSERRAT

(_____)

IN THE MAGISTRATE'S COURT

.....

vs

.....

RECOGNIZANCE TO
PROSECUTE APPEAL

FORM 70.

APPELLANT'S NOTICE THAT HE WILL CALL WITNESSES

Between _____,
of _____, Appellant;
and _____,
of _____, Respondent.
To _____

Take notice that I intend to call the following witnesses at the hearing of the appeal herein. That is to say,

_____ of _____ ;
_____ of _____ ;
of _____

And that the substance of the evidence they will give is as follows:

(Here set out the substance of the evidence to be given by the witnesses)

Dated this _____ day of _____, 20____.

(SIGNED)

FORM 71.

SPECIAL CASE STATED BY MAGISTRATE

MONTSERRAT

In the matter of an appeal from the Magistrate of _____,
Appellant
Between { _____ and _____ Respondent,

This is a case stated for the opinion of the Court of Appeal by the under-signed Magistrate for _____, pursuant to the Magistrate's Court Act, and the case is as follows:—

(Here set out in numbered paragraphs the matter from its commencement by information, complaint, or summons to the adjudication, with the material facts proved, and such of the contentions on either side as will raise the point intended to be submitted, and conclude as follows:)

If the Court is of opinion that _____ then the conviction (or Order, or judgment) shall be confirmed.

But if the Court is of the contrary opinion, then the conviction (Order or judgment) shall be set aside.

This _____ day of _____, 20____.

(SIGNED)

Magistrate.

FORM 72.

NOTICE OF FILING OF SPECIAL CASE

In the matter of an appeal from the Magistrate of

and

, Appellant;

, Respondent.

To:

Take notice that this day there was filed and set down for hearing, before the Court of Appeal to be holden at _____, in the month of _____, 20____, a special case herein stated by _____, the Magistrate _____ for _____.

This _____ day of _____, 20____.

(SIGNED)

Registrar for the Circuit of

FORM 73.

**CERTIFICATE OF THE REGISTRAR THAT THE COSTS OF AN APPEAL
HAVE NOT BEEN PAID**

I hereby certify that at the sitting of the Court of Appeal, holden at _____, on the _____ day of _____, 20____, an appeal by _____ against a conviction (*or* Order, *or* judgment) of the Magistrate for _____ sitting at _____, dated the _____ day of _____, 20____, was heard and determined. And that it was thereupon ordered that the said conviction (*or* Order, *or* judgment) should be confirmed (*or* set aside), and that the appellant (*or* respondent) should, on or before the _____ day of _____, 20____, pay to me the sum of \$ _____ for the respondent's (*or* appellant's) costs of the said appeal.

And I further certify that the said sum for costs has not been paid.

Dated this _____ day of _____, 20____.

(SIGNED)

Registrar for the Circuit of

FORM 74.

NOTICE TO MAGISTRATE OF RESULT OF APPEAL

To the Magistrate for

This is to give you notice that on the _____ day of _____, 20____, the appeal from your decision given on the _____ day of _____, 20____, in the matter of _____ v. _____, was heard by the Court of Appeal, and that the conviction (*or* Order, *or* judgment) was confirmed (*or* set aside).

Dated this _____ day of _____, 20____.

(SIGNED)

Registrar for the Circuit of

FORM 75.

DEPOSITION THAT A PERSON IS A MATERIAL WITNESS

MONTSERRAT

IN THE MAGISTRATE'S COURT

The deposition of _____, taken on oath (*or* affirmation) this _____ day of _____, 20____, who saith that _____, of _____, is likely to give material evidence touching a certain matter now pending before the Court between _____ and _____.

And that this deponent verily believes that the said _____ will not appear voluntarily for the purpose of being examined as a witness (*or* without being compelled so to do) (*or* _____, of _____, having been duly served with a summons personally, (*or* by the same being left at his last (*or* usual) place of abode) to appear this day at this Court to give evidence in the case of _____ v _____, has failed to appear as required)

Sworn before me the day and year first abovementioned.

(SIGNED)

Magistrate.

FORM 76.

SUMMONS TO WITNESS

MONTSERAT

IN THE MAGISTRATE'S COURT

To _____
 of _____ has been
 charged with committing an offence under section _____ of Chapter _____

You are therefore hereby summoned to appear before this Court sitting at
 on _____
 the _____ day of _____, 20____, at the hour of _____ in
 the forenoon to testify what you know in such matter.

Dated the _____ day of _____, 20____.

Magistrate.

FORM 77.

WARRANT FOR APPREHENSION OF A WITNESS

MONTSERAT

IN THE MAGISTRATE'S COURT

To each and all of the Peace Officers of Montserrat

You are hereby commanded to bring _____,
 of _____, before this Court, sitting
 at _____, forthwith (or on _____,
 the _____ day of _____, 20____, at the hour of _____ in
 the _____ noon), to testify what he knows concerning the case of _____
 v. _____

Given under my hand this _____ day of _____, 20____.

(SIGNED)

Magistrate.
 (SEAL)

FORM 78.

COMMITMENT OF A WITNESS

MONTSERRAT

IN THE MAGISTRATE'S COURT

To each and all of the Peace Officers of Montserrat, and to the Superintendent of Her Majesty's prison at

You, the said Peace Officers, are hereby commanded to take safely to the said prison, and there deliver him to the Superintendent thereof, together with this warrant. And you, the Superintendent of the said prison, to receive him into your custody, and keep him for the space of _____, unless he in the meantime consents to be examined and to answer in the matter of

v.

Given under my hand this _____ day of _____ 20 ____ .

(SIGNED)

Magistrate.
(SEAL)

FORM 79.

DEPOSITION TAKEN OUT OF COURT

MONTSERRAT

The deposition of
Taken on oath (or affirmation) at
by reason that
on the _____ day of _____, 20 ____, in the presence of

And the said _____ says
that

Sworn before me this _____ day of _____ 20 ____ .

(SIGNED)

Magistrate.

[Subsidiary]

FORM 80.

**NOTICE TO DEFENDANT THAT A CERTAIN DEPOSITION
WILL BE TAKEN OUT OF COURT**

MONTSERRAT

IN THE MAGISTRATE'S COURT

To _____ of _____

Take notice that the deposition of _____, will be taken at _____
who is _____ day of _____, 20____, at the hour of _____
on the _____ noon.
in the _____

Dated this _____ day of _____, 20____.

(SIGNED)

FORM 81.

**ORDER TO BRING UP PRISONER FOR THE
EXAMINATION OF A WITNESS OUT OF COURT**

MONTSERRAT

IN THE MAGISTRATE'S COURT

To the Superintendent of Prisons at _____

You are hereby ordered to bring _____,
now in your custody, before me at _____ on
the _____ day of _____, 20____, at the hour of _____
in the _____ noon, and on the conclusion of the proceedings to take him back to the
said prison, and there detain him in accordance with the warrant held by you in that behalf.

Given under my hand this _____ day of _____ 20____.

(SIGNED)

Magistrate.
(SEAL)

FORM 83.

CERTIFICATE OF RECOGNIZANCE HAVING BEEN ENTERED INTO

MONTSEERRAT

IN THE MAGISTRATE'S COURT

To the Superintendent of Prisons at

A.B. being now in your custody under a warrant of the Magistrate's Court sitting at _____, in Montserrat, dated the _____ day of _____, 20____ :

It is hereby certified that the surety _____ referred to in the said warrant h _____ duly entered into a recognizance before the above Court sitting at _____ in Montserrat, [or before me].

You are therefore authorised and required to take the recognizance of the said A.B., if not already taken, and to discharge him/her forthwith, if held for the cause stated in the said warrant and no other.

Dated this _____ day of _____, 20____ .

Magistrate.

or

Magistrate, Clerk of Magistrate, or Commissioner of Police or other officer of Police or constable in charge of police station.

FORM 84.

CERTIFICATE OF AMOUNT AND CONDITION OF RECOGNIZANCE

MONTSERRAT

IN THE MAGISTRATE'S COURT

A.B. (hereinafter called the defendant) was, on the _____ day of _____, committed by the Magistrate for sitting at, _____ to Her Majesty's prison at _____ charged with (or convicted of) (naming the offence shortly) (add if notice of appeal has been given, or application made for a case to be stated).

[And has given notice of appeal, or applied for a case to be stated].

I hereby certify that the said Court has consented to the defendant being bailed by recognizance, himself /herself in _____, and (or has fixed the amount of the recognizance to be entered into by the defendant at _____ with _____) surety _____ in _____ (each), conditioned for _____ the appearance of the defendant at the said Court on the _____ day of _____ at the hour of _____ in the _____ noon (or at every time and place to which during the course of the proceedings against the defendant the hearing may be from time to time adjourned, unless the court shall Order otherwise in the meantime). (or the appearance of the defendant at the next Circuit Court at _____ to take his/her trial.) (or to prosecute an appeal against his/her conviction.) (or the prosecution without delay by the defendant of an appeal to the Court of Appeal against his/her conviction and for the appearance of the defendant before the said Court within ten days after the judgment of the superior court shall have been given, to abide such judgment, unless the determination appealed against be reversed.) (or the defendant keeping the peace and being of good behaviour for the term of _____ from the date aforesaid.)

Dated this _____ day of _____, 20 _____.

Clerk of the said Magistrate's Court.

FORM 85.

RECOGNIZANCE IN THE CASE OF AN ACCUSED PERSON

MONTSERRAT

IN THE MAGISTRATE'S COURT

WE, the undersigned, severally acknowledge ourselves to owe to Our Sovereign Lady the Queen the several sums following, namely:—

....., of Name of Principal.

..... Address Profession or Calling

as principal, the sum of \$; and of and as sureties, the sum of \$ each to be levied of our several goods, lands and tenements, if the said principal fail in the condition hereunder written.

Taken before me at the day of , 20 } Magistrate.

CONDITION.

The condition of the above recognizance is such that if the above bounden principal shall appear before the Court sitting at , in Montserrat, in the month of 20 , and at any adjourned hearing thereof to answer the charge made by against and to be dealt with according to law, and not depart the Court without leave, then this recognizance shall be void, but otherwise shall remain in full force.

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MONTSERRAT

()

IN THE MAGISTRATE'S COURT

RECOGNIZANCE OF TO APPEAR FOR TRIAL

FORM 86.

RECOGNIZANCE IN THE CASE OF PROSECUTOR OR WITNESS

MONTSERRAT

IN THE MAGISTRATE'S COURT

I, the undersigned, acknowledge myself to owe to Our Sovereign Lady the Queen the sum of \$ _____, to be levied of my goods, lands, and tenements, if I fail in the condition hereon endorsed.

(Signed, where not taken orally) X

Taken (orally) before me,

This _____ day of _____, 20____.

(SIGNED)

Magistrate.

The condition of the abovementioned recognizance is such that if the above bounden _____ appears before the Circuit Court sitting at _____, in the month of _____, 20____, and then and there prosecutes (or gives evidence, or prosecutes and gives evidence) in the charge made against _____ by _____ then this recognizance shall be void, but otherwise shall remain in full force.

FORM 87.

RECOGNIZANCE TO KEEP THE PEACE

MONTSERRAT

IN THE MAGISTRATE'S COURT

The under-mentioned persons severally acknowledge themselves to owe to Our Sovereign Lady the Queen the several sums following, namely:

of _____ ,
 as principal, the sum of _____ ,
 _____ , and
 of _____ ,
 and _____ ,
 of _____ ,
 as surety _____ the sum
 of _____ (each) to be levied on their several goods,
 lands, and tenements if the said principal fails in the condition hereon endorsed.

(Signed, where not taken orally)

A.B.

G.H.

J.K.

Taken (orally) before me this _____ day of _____ 20 _____ .

Magistrate
 Clerk of the Magistrate
 Superintendent of Police or
 other officer of Police or
 Constable in charge of

Police Station.

CONDITION.

The condition of the above recognizance is such that if the above bounden principal shall keep the peace and be of good behaviour towards Her Majesty and all Her liege people, and especially towards _____ for the term of _____ now next ensuing, then the said recognizance shall be void but otherwise shall remain in full force.

FORM 88.

**NOTICE OF RECOGNIZANCE TO ACCUSED
(MAGISTRATE'S COURT)**

MONTSEERRAT

IN THE MAGISTRATE'S COURT

TAKE NOTICE that you _____ are bound in the sum of \$ _____ as Principal, and you _____ and _____ in the sum of \$ _____ each as Sureties, that you the said Principal will appear before this Court sitting at _____, in Montserrat on the _____ day of _____ 20____, at the hour of _____ in the _____ noon, and at every other time and place to which the hearing of the case may be from time to time adjourned, to answer to the charge made against you by _____ and be dealt with according to law.

And unless you (the said Principal) appear accordingly, the said sums will forthwith be levied on you (severally).

Dated the _____ day of _____ 20____.

Magistrate.

FORM 89.

NOTICE OF RECOGNIZANCE TO PROSECUTE AND GIVE EVIDENCE

TAKE NOTICE that you _____ are bound in the sum of \$ _____ that you will appear before the Circuit Court sitting at the _____ in the month of _____ of _____ next to prosecute and/or give evidence in the charge made against _____ by _____.

And unless you appear accordingly the said sum will forthwith be levied upon you.

Dated the _____ day of _____ 20____.

Magistrate.

[Subsidiary]

FORM 90.

NOTICE OF RECOGNIZANCE TO KEEP THE PEACE

TAKE NOTICE that you
are bound in the sum of \$ _____ as Principal, and you
and _____
in the sum of \$ _____ each as sureties, that you (the said Principal) will keep
the peace and be of good behaviour towards Her Majesty and all Her liege subjects, and
especially towards one _____ for the
space of _____ now next ensuing.

And unless you (the said Principal) keep the peace and be of good behaviour accordingly,
the said sums will forthwith be levied on you (severally).

Dated the _____ day of _____, 20 ____.

Magistrate.

FORM 91.

SUMMONS FOR FORFEITURE OF RECOGNIZANCES

MONTSERRAT

IN THE MAGISTRATE'S COURT

To

You are hereby summoned to appear before this Court sitting at
_____, on the _____ day of _____
20 ____, at the hour of _____ in the _____ noon, to show cause why the
recognizance entered into the _____ day of _____, 20 ____, whereby
you are bound to pay the sum of \$ _____ should not be
adjudged to be forfeited.

Dated this _____ day of _____, 20 ____.

(SIGNED)

Magistrate.
(SEAL)

FORM 93.

SUMMONS TO VARY SURETIES

MONTSEERRAT

IN THE MAGISTRATE'S COURT

To
of

You are hereby summoned to appear before this Court sitting at _____, on _____ the day of _____, 20____, at the hour of _____ in the _____ noon to show cause why the Order made by this Court on the _____ day of _____, 20____, against to find sureties, should not be varied or otherwise dealt with.

Dated this _____ day of _____, 20____.

(SIGNED)

Magistrate.
(SEAL)

FORM 94.

INDORSEMENT OF FORFEITURE OF RECOGNIZANCE

MONTSEERRAT

IN THE MAGISTRATE'S COURT

The within-mentioned principal not having complied with the said condition, this Court adjudges the within-written recognizance to be forfeited.

Dated this _____ day of _____, 20____.

(SIGNED)

Magistrate.
(SEAL)

FORM 95.

INDORSEMENT MITIGATING FORFEITURE, ETC.

MONTSERRAT

IN THE MAGISTRATE'S COURT

The within-mentioned recognizance having been adjudged to be forfeited, and having applied to this Court to cancel (or mitigate) such forfeiture, and having given security to the satisfaction of this Court for the future performance of the condition of the said recognizance, and having paid (or given security for payment of) the costs incurred in respect of the forfeiture thereof (*or insert such other condition as the Court may think just*).

Therefore the said forfeiture is hereby cancelled (or mitigated to the sum of \$ _____).

Dated this _____ day of _____, 20____.

(SIGNED)

Magistrate.
(SEAL)

FORM 96.

SECURITY FOR FINE

MONTSERRAT

IN THE MAGISTRATE'S COURT

_____ , hereinafter called
the defendant, was this day (or on the _____ day of _____,
20____), convicted before this Court and ordered to pay the sum of \$
_____ (by instalments of \$ _____ for every _____ days,
the first instalment to be paid) forthwith (or on the _____ day of _____ 20____),
and to give security for the due payment thereof.

Now, therefore, the defendant and his sureties,
of _____,
and _____,
of _____,
hereby undertake that the defendant will pay the sum adjudged at the time and in the
manner thereby directed, and hereby severally acknowledge themselves severally bound to
forfeit and pay the sum of \$ _____ to this Court in case the defendant
fails to perform this undertaking.

Signed, where not taken orally,

X
X
X

Taken (orally) before me,

This _____ day of _____, 20____.

(SIGNED)

Magistrate.

FORM 97.

SECURITY TO PERFORM CONDITION OF FORFEITED RECOGNIZANCE

MONTSERRAT

IN THE MAGISTRATE'S COURT

_____ , hereinafter called
the defendant, was by his recognizance entered into the _____ day of
20____ , bound in the sum of \$ _____ .

And the said recognizance has been adjudged to be forfeited, but the said
defendant has applied to this Court to cancel (or mitigate) the forfeiture.

Now, therefore, the defendant and his sureties,
of _____ ,
and _____ ,
of _____ ,
hereby undertake that the condition of the said recognizance shall be duly performed (and
that the said _____ shall on
or before the _____ day of _____ pay the
sum of \$ _____ for costs incurred in respect of the said forfeiture), and hereby
severally acknowledge themselves severally bound to forfeit and pay the sum of
\$ _____ in case the said defendant fails to perform the condition of the
said recognizance.

Signed, where not taken orally, _____ x
_____ x
_____ x

Taken (orally) before me,

The _____ day of _____ , 20____ .

(SIGNED)

Magistrate.

FORM 98.

NOTICE TO PRINCIPAL OF FORFEITURE OF SECURITY

MONTSERRAT

IN THE MAGISTRATE'S COURT

To
of

Take notice that you have forfeited the sum of \$ _____ for which you were bound by your undertaking entered into the _____ day of _____, 20____, and that unless you pay that sum to _____ at _____ on or before the _____ day of _____, 20____, a warrant of distress will be issued for the recovery thereof.

Dated this _____ day of _____, 20____.

(SIGNED)

Magistrate.

FORM 99.

ORDER VARYING ORDER FOR SURETIES

MONTSERRAT

IN THE MAGISTRATE'S COURT

_____, hereinafter called the defendant, has been, under a warrant of commitment dated the _____ day of _____ 20____, issued by this Court, committed to prison for default in finding surety _____ in the sum of \$ _____.

Upon further consideration, it is now ordered that the amount in which the surety of the defendant are to be bound be reduced to \$ _____ (or the obligation of the defendant to find surety _____ be dispensed with).

Dated this _____ day of _____, 20____.

(SIGNED)

Magistrate.
(SEAL)

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MONTSERRAT

()

IN THE MAGISTRATE'S COURT

Vs.

WARRANT OF DISTRESS

	\$	c.
Amount due		
Cost of this Warrant		
Total		

FORM 101.

INDORSEMENT ON PROCESS

MONTSERRAT

Proof on oath (or affirmation) having this day been made before me that the name of _____ to the within distress warrant subscribed is of the handwriting of the Magistrate within mentioned, I authorise _____, who brings to me this warrant, and all other persons by whom it may be lawfully executed, and also all Peace Officers of Montserrat, to execute the same within Montserrat.

Dated this _____ day of _____ 20 ____ .

(SIGNED)

Magistrate.

FORM 102.

WARRANT OF DISTRESS FOR SUM DUE

Under Recognizance

MONTSERAT

IN THE MAGISTRATE'S COURT

To each and all of the Peace Officers of Montserrat.

was by his recognizance entered into the day of 20, bound in the sum of \$. And the condition of the said recognizance having been broken, it was on the day of , 20, adjudged by this Court that the said recognizance be forfeited, and that he do pay the said sum of \$, and also do pay the further sum of \$ for costs (by instalments of \$, for every days, the first instalment to be paid) forthwith (or on the day of , 20).

And default having been made in payment, you are hereby commanded to forthwith make distress of the goods of the said (except the wearing apparel and bedding of him and his family, and, to the value of \$24, the tools and implements of his trade); and if within the space of five clear days next after the making of such distress, unless he consents in writing to an earlier sale, the sum stated at the foot of this warrant, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods, and, after deducting the expenses of the sale, pay so much of the money arising therefrom to, this Court as is sufficient to satisfy this warrant, and the surplus, if any, to the said , and if no such distress can be found to certify the same to this Court.

Dated this day of , 20 .

(SIGNED)

Magistrate.
(SEAL)

\$ c.

Amount due under recognizance
Paid... ..

Remaining due
Cost of issuing this warrant... ..

Total amount to be levied... ..

FORM 103.

RETURN OF INSUFFICIENT DISTRESS TO BE INDORSED ON WARRANT

I, _____, hereby
certify that by virtue of the within-written warrant I have made diligent search for the
goods of the within-named _____,
and that I can find no sufficient goods of him whereon the sums within mentioned can be
levied.

Dated this _____ day of _____, 20____.

(SIGNED)

FORM 104.

WARRANT TO COMMIT IN DEFAULT OF DISTRESS

MONTSERRAT

IN THE MAGISTRATE'S COURT

To each and all the Peace Officers of Montserrat, and to the Superintendent of Prisons at _____ in Montserrat.

_____ hereinafter called
the defendant having been ordered on the _____ day of _____ 20____ ,
to pay the sum of \$ _____ and the further sum of \$ _____ for costs
under section _____ of Chapter _____ .

And default having been made in payment, the constables aforesaid were authorised by warrant, dated the _____ day of _____ , 20____ , to levy the sum of \$ _____ by distress:

And it now appearing that no sufficient distress whereon to levy the said sum could be found. You, the said constables, are hereby commanded to convey the defendant to the said prison and there deliver h _____ to the Superintendent thereof, together with this warrant, and you the Superintendent of the said prison, to receive the defendant into your custody, and keep h _____ for the space of _____ unless the said sum, and all the costs and charges of the said distress, amounting to the further sum of _____ and all the costs and charges of h _____ commitment and of h _____ conveyance to the said prison be sooner paid.

Dated this _____ day of _____ 20____ .

Magistrate.

	\$	c.
Amount adjudged.....		
Costs.....		
Costs of Distress Warrant		
Costs of Warrant of commitment.....		
Total.....		

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MONTSERRAT

()

IN THE MAGISTRATE'S COURT

vs

WARRANT OF COMMIT IN
DEFAULT OF DISTRESS

	\$	c.
Fine		
Compensation		
Costs		
Costs of Commitment		
Distress Warrant		
Total		

FORM 105.

ACCOUNT OF CHARGES INCURRED ON A WARRANT OF DISTRESS

In the matter of an information (or complaint) by
against _____, I _____,
of _____, the Peace Officer charged with the
execution of the warrant of distress upon the goods of
dated the _____ day of _____, 20_____, hereby declare that the
following is a true account of the costs and charges incurred in respect of the execution of
the said warrant.

Dated this _____ day of _____ 20_____.

(SIGNED)

	\$	c.
Total		

FORM 106.

REPLEVIN BOND

Know all men by these presents that we,
of _____,
of _____,
and _____,
of _____, are held
and firmly bound unto _____, in the sum of \$ _____ to be
paid to the said _____, his executors, administrators, or assigns, for
which payment to be made we bind ourselves and each of us, and the heirs, executors, and
administrators of us and each of us respectively jointly and severally by these presents.

Sealed with our seals and dated this _____ day of _____, 20 ____.

Whereas the abovementioned _____ and _____,
at the request of the said _____ have agreed to
enter into the above-written obligation, and this security has been approved by the
Magistrate for (or the Clerk to the Magistrate for) _____:

Now the condition of this obligation is that if the above bounden
_____ within
_____ days from the date of this obligation commences an action of replevin against
the said _____,
in the _____ Court to be holden at _____,
for taking and detaining certain goods and chattels of the said _____,
to wit, _____ and prosecutes such action without delay,
and also makes return of the said goods and chattels if return thereof is awarded by the
said Court, then this obligation shall be void and of no effect, but otherwise shall remain in
full force.

Signed, sealed, and delivered by _____ ; (SEAL)
in the presence of _____

Signed, sealed, and delivered by _____ ; (SEAL)
in the presence of _____

Signed, sealed, and delivered by _____ ; (SEAL)
in the presence of _____

FORM 107.

WARRANT TO REPLEVY

MONTSEERRAT

IN THE MAGISTRATE'S COURT

To the Peace Officers of Montserrat.

Whereas _____ of _____ has given security as well to commence his action of replevin against _____ for the taking and detaining of certain goods and chattels of the said _____, that is to say _____, and prosecute such action with effect and without delay, as also to return the said goods and chattels if return thereof shall be adjudged by the law;

Now I hereby authorise and direct you without delay to replevy and deliver the said goods and chattels to the said _____, and forthwith return to me this warrant, and what you shall have done thereunder.

Dated this _____ day of _____, 20 _____.

(SIGNED)

Magistrate.
(SEAL)

FORM 108.

COMMITMENT ON REMAND

MONTSEERRAT

IN THE MAGISTRATE'S COURT

To each and all of the Peace Officers of Montserrat, and to the Superintendent of Her Majesty's prison at _____ in Montserrat.

_____ , hereinafter called the defendant,
being brought before this Court at _____ charged with having
committed an offence under section _____ of Chapter _____
of _____

The hearing of the case being adjourned;

YOU, the said Peace Officers, are therefore hereby commanded to convey the defendant to the said prison, and there to deliver him to the Superintendent thereof, together with this warrant, and you, the Superintendent of the said prison, to receive him into your custody, and keep him until the _____ day of _____ , 20 _____ , and on that day to convey him before this Court, sitting at _____ , at the hour of _____ in the _____ noon, to be dealt with according to Law.

Given under my hand this _____ day of _____ , 20 _____ .

(SIGNED)

Magistrate.
(SEAL)

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MONTSERRAT

ENDORSEMENT WHERE BAIL
IS ALLOWED

IN THE MAGISTRATE'S COURT

I hereby certify that I consent to the defendant
being bailed himself in dollars
and suref.... in
dollars each.

=====

COMMITMENT ON REMAND
OF

.....

Magistrate

=====

Dated the day of, 20.....

FORM 109.

ORDER TO BRING UP A PRISONER

MONTSERRAT

IN THE MAGISTRATE'S COURT

To the Superintendent of Prisons at .
You are hereby ordered to bring
now in your custody, before this Court, sitting at
on day the day of , 20 ,
at the hour of in the noon.

This day of 20 .

(SIGNED)

Magistrate.
(SEAL)

FORM 110.

ORDER FOR RESTITUTION

MONTSERRAT

Whereas of
has been charged with having committed an indictable offence, and has been summarily
convicted by me of an offence under section of Chapter
of ;

And whereas certain property to wit , being
the subject-matter of the offence committed by the said
is now in the custody of , a Peace Officer of
Montserrat, and is the property of ;

Now I hereby Order that the said property be restored to the said
.

Given under my hand this day of , 20 .

(SIGNED)

Magistrate.
(SEAL)

COURT OF SUMMARY JURISDICTION (FEES) ORDER

(S.R.O. 6/1975)

Short title

1. This Order may be cited as the Court of Summary Jurisdiction (Fees) Order.

Fees

2. The Fees and costs to be taken in all civil proceedings in the Magistrate's Court and in the Office of such Court and to be allowed to solicitor and counsel shall be on the scale prescribed in the Schedule to this Order.

SCHEDULE

FEES

(1) FEES OF BARRISTERS AND SOLICITORS

Contract:

In uncontested contract cases the following fees for counsel shall be allowed—

Where the claim—

	\$	¢
(a) does not exceed \$50 such sum as the Magistrate may award not exceeding	30	
(b) exceeds \$50, but does not exceed \$250 such sum as the Magistrate may award not exceeding	50	
(c) exceeds \$250, but does not exceed \$500, such sum as the Magistrate may award not exceeding	70	
(d) exceeds \$500, such sum as the Magistrate may award not exceeding	100	

In contested contract cases, the following fees for counsel shall be allowed—

Where the claim—

(a) does not exceed \$50 such sum as the Magistrate may award not exceeding	40	
(b) exceeds \$50, but does not exceed \$250, such sum as the Magistrate may award not exceeding	60	

- (c) exceeds \$250, but does not exceed \$500, such sum as the Magistrate may award not exceeding 90
- (d) exceeds \$500, such sum as the Magistrate may award not exceeding 120

Tort:

The following fees for counsel shall be allowed in cases—

\$ ¢

- (a) where the subject matter involved or sum recovered or amount claimed (as the Magistrate shall direct) does not exceed \$360, such sum as the Magistrate may award not exceeding 100
- (b) where the subject matter involved or sum recovered or amount claimed (as the Magistrate shall direct) exceeds \$360, such sum as the Magistrate may award not exceeding 200

Applications on Notice other than for Leave to Issue Proceedings Out of the Jurisdiction.

For leave to defend, for stay of execution or for any other necessary or proper application—

- (a) where the subject matter involved or sum recovered or amount claimed in the action (as the Magistrate shall direct) does not exceed \$50, such sum as the Magistrate may award not exceeding 20
- (b) where the subject matter involved or sum recovered or amount claimed in the action (as the Magistrate shall direct) exceeds \$50, such sum as the Magistrate may award not exceeding 30

PARTICULARS

For preparing particulars of claim 5

JUDGMENT DEBTOR SUMMONS

Where the amount of the judgment debt—

- (a) does not exceed \$50, such sum as the Magistrate may award not exceeding 10
- (b) exceeds \$50, but does not exceed \$150, such sum as the Magistrate may award not exceeding 20

(c) exceeds \$150, such sum as the Magistrate may award
not exceeding 30

GARNISHEE SOLICITOR'S COSTS

Where the garnishee appears and admits the debt, such sum
as the Magistrate may award not exceeding 10

ON ISSUING EXECUTION

Where the amount or the Judgment does not exceed \$50 5

Where the amount or the judgment exceeds \$50 10

(2) ARBITRATION

The same general fee may be allowed as on the trial of a cause in Court.

SITTINGS OF COURT ORDERS – SECTION 10

Made by the Governor acting on the advice of Cabinet

1. The places specified in the Schedule are appointed as places for the sitting of the Magistrate's Court.
2. The Court shall be held between the hours of 9 a.m. and 4 p.m. on weekdays or such later hours as may be required in any particular case.
(Amended by Act 9 of 2011)

SCHEDULE

The Court House situated at Brades, at the temporary Government Headquarters site *(S.R.O. 3/1999)*

Police Station Cudjoe Head *(S.R.O. 19/1964)*

Residence of Mrs. Gertrude Edwards, Salem *(S.R.O. 41/1995)*

R.M.D.F. Headquarters, Gerald's *(S.R.O. 33/1997)*

The Training room at HRMU situated at Government Headquarters *(S.R.O. 76/2012)*.
