MAGISTRATES BILL, 2026

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MAGISTRATES BILL, 2026

A BILL FOR AN ACT TO MODERNIZE, REPEAL AND REPLACE THE MAGISTRATES ACT

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title.

This Act may be cited as the Magistrates Act, 2026.

2. Interpretation.

In this Act, unless the context otherwise requires —

"adult" means a person who, in the opinion of the magistrate before whom he is brought, is eighteen years of age or upwards;

"child" means a person who, in the opinion of the magistrate before whom he is brought, is under fourteen years of age, and of sufficient age and capacity to commit crime;

"circuit magistrate" means a magistrate or the person performing the duties of a magistrate when on circuit;

"civil proceedings" include all small causes as defined by this Act, and all proceedings in relation to the making of an order —

(a) for the payment of any sum of money declared to be a civil debt, recoverable summarily by any Act; or

(b) for the doing or the abstaining from the doing of any act or thing not enforceable by fine or imprisonment in the first instance;

"complaint" means a charge not made on oath, and whether or not reduced into writing, and includes information;

"conviction" means any summary conviction on a complaint or information and includes any order made by a magistrate on any matter brought before him on complaint or information; and also any other order made under the provisions of this Act for the payment of any fine as defined by this Act, not being a judgment in civil proceedings;

"court" means the Supreme Court, and includes a circuit justice on circuit;

"district" in reference to —

(a) New Providence, means New Providence and all islands and parts of islands and cays situate and being within five leagues of New Providence, or such other islands, parts of islands and cays adjacent thereto as the Governor-General by Order may from time to time declare and determine; and

(b) a Family Island, means a district constituted under the provisions of the Local Government Act;

"fine" includes penalty, and also any pecuniary forfeiture or pecuniary compensation, or any sum of money or any costs payable under any decision of a magistrate not being a judgment in civil proceedings;

"goods" means any personal property which may by law be levied on by distress or writ of execution;

"guardian" includes any person who, in the opinion of the magistrate having cognisance of any case in which a child or young person is concerned, has for the time being the charge of, or control over, such child or young person;

"imprisonment in the first instance" means imprisonment imposed at the time of the making of a conviction without the option of paying a fine;

"**indictable offence"** means any offence which is triable only at the sessions;

"information" means a charge made on oath and reduced into writing;

"judge" means a Justice of the Supreme Court;

"judgment" means a final decision in civil proceedings, and includes an interlocutory order;

"magistrate" —

(a) means the Chief Magistrate, a Deputy Chief Magistrate, Assistant Chief Magistrate, a Senior Magistrate, a Magistrate, and a magistrate on circuit;

(b) includes a Family Island Administrator appointed under the Local Government Act;

"magisterial court" means a court presided over by a magistrate;

"offence" means any contravention of any law in force in The Bahamas which is punishable or enforceable on a verdict of a jury, a judge, or on summary conviction by fine or imprisonment;

"parent" includes the mother of, and the putative father of, a bastard child;

"person" includes child, young person and adult, and also a body corporate;

"sessions" means the Supreme Court sitting to try indictable offences;

"small cause" means —

(a) any action founded on contract where the debt or demand or value of the thing claimed or the rent in arrears is not more than five thousand dollars;

(b) any action founded on tort where the demand or damage claimed is not more than five thousand dollars;

(c) any action, suit or proceeding for the recovery of any amount not exceeding ten thousand dollars entered for trial on the summary side of the Supreme Court save and except an action, suit or proceeding involving a question of title to land which a magisterial court has no jurisdiction to try, remitted for trial at a magisterial court by the Supreme Court under the provisions of this Act;

"solicitor" includes writer to the signet and attorney;

"statutory training school" means any reformatory, industrial or other school established, or to be established, under any Act for the reformation, education and training of children and young persons;

"warrant" includes search warrant, distress warrant and warrant of commitment;

"young person" means a person who, in the opinion of the magistrate before whom he is brought, is of the age of fourteen years and under the age of eighteen years.

PART II – APPOINTMENT, JURISDICTION, POWERS AND DUTIES OF MAGISTRATES

APPOINTMENT

3. Appointment and qualification of magistrates.

(1) The Governor-General acting in accordance with the advice of the Judicial and Legal Service Commission may appoint magistrates who shall hold office during pleasure.

(2) No person shall be appointed a magistrate unless —

(a) he is a member of at least five years standing of the English, Irish, Scottish or Bahamas Bar, or of the Bar of any other country of the Commonwealth to which a member of the Bahamas Bar is admitted without examination; or

(b) he has been enrolled and has practised for at least five years as a solicitor in England, Ireland or Scotland, or in any other country of the Commonwealth in which a member of the Bahamas Bar is permitted to practise as a solicitor without examination.

(3) Any person appointed to be a magistrate shall —

(a) be *ex officio* a magistrate for the whole of The Bahamas; and

(b) have in each and every district all the powers, authorities, jurisdictions, rights, privileges, duties and liabilities conferred or imposed upon a magistrate by any law, but may be assigned by the Chief Magistrate to a particular district or districts and may be transferred by the Chief Magistrate from one district to another.

(4) Notwithstanding an assignment made pursuant to subsection (3)(b), a magistrate so assigned may exercise jurisdiction in any other district or districts.

(5) The title of Senior Magistrate may be conferred upon any number of magistrates by the Governor-General, by instrument under the Public Seal, acting on the advice of the Judicial and Legal Service Commission.

4. Appointment of Chief Magistrate and Deputy Chief Magistrates.

(1) The Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission, may appoint a Chief Magistrate and two Deputy Chief Magistrates who shall hold office during pleasure.

(2) No person shall be appointed as Chief Magistrate or Deputy Chief Magistrate unless he is qualified to be appointed as a magistrate under section 3 of this Act.

(3) The Chief Magistrate and each Deputy Chief Magistrate shall be *ex officio* a magistrate for the whole of The Bahamas and shall be invested with all the powers, authorities, jurisdictions, rights, privileges, duties and liabilities conferred or imposed upon a magistrate or circuit justice by this or any other Act, but one of the Deputy Chief Magistrates shall be assigned by the Chief Justice to Freeport.

(4) In addition to any other functions conferred upon the Chief Magistrate by this or any other Act, the Chief Magistrate shall be responsible for —

(a) ensuring the fair distribution of criminal and civil cases filed in the magisterial courts; and

(b) directing the assignment of criminal and civil cases which are to be heard on appeal in the magisterial court.

SITTINGS OF COURT

5. Times and places for sittings of magisterial courts.

(1) The Chief Justice may, by notice, appoint the places for the sittings of magisterial court.

(2) Notwithstanding the provisions of section 5 of the Public Holidays Act, the times for the sittings of a magisterial court are —

(a) on every day of the year except Saturdays, Sundays and public holidays, from the hour of nine-thirty o'clock in the morning until the hour of five-thirty o'clock in the afternoon or until such later hour as may be determined by the presiding magistrate, with an interval of one hour (for lunch) at a time determined by the presiding magistrate; and

(b) on every Saturday except public holidays, from the hour of ten o'clock in the morning until the hour of three o'clock in the afternoon,

save that, the Chief Justice may, by notice, extend the times for the sittings of any magisterial court specified in the notice.

(3) Every notice given by the Chief Justice under subsection (1) or (2) shall be published in the *Gazette* and shall take effect on the publication thereof or at any other time mentioned therein.

(4) A copy of every notice so given shall be posted up in a conspicuous place in every magisterial court room of the district to which it relates.

6. Times and places for sittings of circuit courts.

A magistrate shall hold circuit court in a Family Island at such times and places and in such manner as the Chief Justice may direct —

(a) for the hearing of appeals; and

(b) for the trial of cases to be tried exercising original jurisdiction under any Act.

JURISDICTION

7. Jurisdiction of magistrates generally.

(1) Every magistrate has jurisdiction —

(a) to investigate all charges of indictable offences in accordance with the provisions of the Criminal Procedure Code Act;

(b) to exercise all powers vested in, and do all acts authorised to be done by a justice of the peace or two justices of the peace or by a magistrate under any Act of the Parliament of the United Kingdom extended to or in force within The Bahamas:

Provided that a magistrate in a Family Island shall forthwith on the apprehension of a person under the Extradition Act cause such person to be brought before, and to be further dealt with by a magistrate at Nassau;

(c) to hear and determine in accordance with the provisions of this Act all civil proceedings as defined by this Act, wherein the cause of action has arisen within, or the defendant resides within, the magistrate's district;

(d) to hear and determine in accordance with the provisions of the Criminal Procedure Code Act any complaint against any person —

(i) being or coming within his district concerning the commission of any offence as regards any matter

directed or authorised by that or any other Act to be prosecuted or dealt with summarily;

(ii) within his district for the recovery of any fine, penalty or forfeiture not specially assigned by any law to the Supreme Court;

(e) to hear and determine all proceedings arising within his district relating to seizures under the revenue laws where the value of the article seized does not exceed two thousand dollars.

(2) Every magistrate also has jurisdiction, and this Act shall accordingly apply, in relation to any matter where, by any Act of The Bahamas or Act of the Parliament of the United Kingdom extended or applicable to The Bahamas, any offence is directed or authorised to be prosecuted summarily, or any words are used in any such Act implying that such offence is to be prosecuted summarily, or (subject to the provisions of this Act or any such other Act as aforesaid) —

(a) where any sum of money is directed or authorised to be recovered summarily;

(b) where a magistrate is authorised to order or require a person to do or abstain from doing any act or thing other than the payment of money;

(c) where anything is declared capable of being enforced summarily or by summary order;

(d) where any amount is declared to be recoverable summarily as a civil debt.

(3) The jurisdiction conferred on a magistrate by this or any other Act shall (except where otherwise prescribed by such Act) be exercised by him solely within the limits of his district and for the purposes of the trial of any offence punishable on summary conviction, the following provisions shall have effect —

(a) where the offence is committed within the waters adjoining the district of a magistrate; such offence shall be deemed to have been committed within the district of such magistrate;

(b) where the offence is committed on the boundary of the districts of two or more magistrates, or within the distance of five hundred yards of any such boundary; or partly within the district of one magistrate and partly within the district of another magistrate, such offence may be dealt with, tried and punished by any one of such magistrates;

(c) where it is uncertain within which of two or more adjoining districts an offence is committed, such offence may be tried and punished by a magistrate of any of such adjoining districts:

(4) It shall be lawful for the Director of Public Prosecutions, if he thinks it expedient so to do, to institute, and also issue his fiat authorising any other person to institute, any proceedings before a magistrate in respect of a matter which is cognisable by a magistrate in another district and thereupon and, in the case of another person, on the production of such fiat to the magistrate, the magistrate shall have jurisdiction to deal with such matter as aforesaid.

8. Increased civil jurisdiction of magistrates.

(1) A Magistrate shall, in addition to any other jurisdiction conferred upon him by this or any other Act, have jurisdiction to hear and determine any civil cause or matter where the amount sought to be recovered or the value of the property in dispute does not exceed twenty thousand dollars.

(2) The provisions of this Act shall apply to the exercise by such magistrate of the jurisdiction conferred upon him by this section in all respects as if the cause or matter were civil proceedings within the meaning of this Act.

9. Jurisdiction when title to land involved.

(1) In addition to the original jurisdiction conferred upon a magistrate by this or any other Act, a magistrate shall also have jurisdiction and authority to try summarily any case in which the title to land is involved where the value of the land in dispute shall not exceed ten thousand dollars.

(2) Nothing contained in section 10, shall be deemed to apply to a magistrate exercising jurisdiction under this section.

10. Magisterial court has no jurisdiction where there is title to land in dispute.

(1) Subject to the provisions of section 9 and section 11(c), a magisterial court shall have no jurisdiction to try summarily any case in which title to land or any interest therein is directly or incidentally in dispute.

(2) This section shall not apply where —

(a) the claim to such title is impossible in law;

(b) in the opinion of the court, the claim to such title is not set up in good faith;

(c) in the opinion of the court, the act complained of was not done in assertion of the title claimed;

(d) the main point at issue is a dispute as to the correct position of the boundary line of the land in respect of which the action is brought.

(3) In any case in which the defendant objects to the jurisdiction of a magisterial court on the ground that title to land or any interest therein is in dispute, the court shall require the defendant to state the nature of the title claimed.

(4) If the court shall thereupon be of the opinion that the claim is impossible in law it shall overrule the objection and proceed with the case.

(5) In all other cases the court may in its discretion require to be satisfied by evidence that —

(a) the claim to such title is set up in good faith;

(b) the act complained of was done in assertion of the claim; or

(c) the main point in issue involves more than a dispute as to the correct position of the boundary lines of the land in respect of which the action is brought,

and unless the court is so satisfied it shall overrule the objection and proceed with the case.

(6) The court may in its discretion proceed with the case, and postpone its decision as to the question of jurisdiction until it shall have heard all the evidence in the case.

11. Jurisdiction of magistrate on circuit court.

(1) The magistrate on circuit court shall have jurisdiction —

(a) to hear appeals in a district of a Family Island;

(b) to hear and determine all original complaints and civil proceedings;

(c) to try summarily any case in which the title to land is involved where the value of the land in dispute shall not exceed ten thousand dollars, and nothing contained in section 10 shall be deemed to apply to a circuit justice exercising jurisdiction under this section.

(2) Subject to section 234 of the Criminal Procedure Code Act, an appeal shall lie to the Supreme Court in any case in which a circuit justice exercises original jurisdiction on circuit.

POWERS, DUTIES AND IMMUNITY OF MAGISTRATES

12. Chief Magistrate may transfer civil proceedings.

(1) The Chief Magistrate may transfer any civil proceedings listed in a magisterial court to any other magisterial court.

(2) Notwithstanding subsection (1), where a transfer of civil proceedings is made in respect of a matter in which the hearing of evidence in those proceedings has begun, the hearing of the evidence shall be restarted.

13. Magistrate may deliver judgment prepared by predecessor.

Unless the Chief Justice otherwise directs, where a magistrate has completed the hearing of a trial in any civil proceedings save for the delivery of the judgment and subsequently ceases to act as a magistrate or is transferred to another district, that magistrate may nevertheless prepare the judgment to be delivered in respect of the trial and that judgment may be read by his successor.

14. Powers of acting magistrate.

(1) When a magistrate is on circuit, the person acting as magistrate may if he thinks it expedient, continue as such magistrate the hearing of and may dispose of any complaint or claim commenced or part heard by a magistrate or circuit magistrate.

(2) Subsection (1) shall not apply to criminal proceeding.

15. Power to magistrate to adjourn and remand.

If at any time during any proceedings before a magistrate it shall become necessary to adjourn the hearing of the same, the magistrate may from time to time adjourn the case to a certain time and place to be then appointed, in the hearing of the parties, or their counsel or attorneys.

REGISTER OF COURT AND RECORD OF COURT PROCEEDINGS

16. Register of court of magistrate.

(1) Every magistrate or his clerk (if any) shall keep a register of the minutes or memoranda of all the orders of such magistrate and of such other proceedings as are directed by a rule under this Act to be registered; and shall keep the same with such particulars and in

such form as may be from time to time directed by a rule under this Act.

(2) A full and true account shall be kept of every sum paid to the clerk or magistrate under this Act, and the appropriation of such sum shall be entered and authenticated in such manner as may be from time to time directed by a rule under this Act.

(3) Every such register shall be open for inspection without fee or reward by any magistrate, or by any person authorised in that behalf by a magistrate or by the Governor-General.

(4) The magistrate may in addition to such fees, in his discretion, allow any reasonable sum or sums, not exceeding one thousand dollars by way of compensation for the attendance and loss of time of the parties and witnesses, and attorney's costs, and all sums so allowed in any civil proceeding shall be recovered as costs therein.

17. Record of court proceedings.

(1) Notwithstanding anything to the contrary in any law where adequate equipment is provided for recording mechanically the evidence and proceedings in any cause or matter, whether civil or criminal, heard before a magisterial or coroner's court, the presiding magistrate or coroner, as the case may be, may proceed to have such evidence and proceedings recorded by that equipment.

(2) Save as provided in subsection (1) the provisions of section 77 of the Supreme Court Act shall *mutatis mutandis* apply to the mechanical recording of such evidence and proceedings.

IMMUNITY OF AND ACTIONS AGAINST MAGISTRATES

18. Immunity of magistrates.

Magistrates shall enjoy the same immunity from liability as judges of the Supreme Court.

19. Action to be brought against convicting magistrate.

Where a conviction or order is made by a magistrate, and a warrant of distress or commitment is granted by some other magistrate *bona fide* and without collusion, no action shall be brought against the magistrate who granted such warrant—

(a) by reason of any defect in such conviction or order; or

(b) 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.

20. Mandamus to magistrate refusing to act.

(1) In all cases where a magistrate refuses to do any act relating to the duties of his office as magistrate, it shall be lawful for the party requiring such act to be done to apply to the Supreme Court upon an affidavit of the facts, for a rule calling upon such magistrate and also the party to be affected by such act, to show cause why such act should not be done.

(2) If, after due service of such rule, good cause is not shown against it, the court may make the same absolute with or without or upon payment of costs as to it seems fit.

(3) 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 such magistrate for having obeyed such rule and done the act thereby required.

PART III — PROVISIONS GOVERNING SUMMARY CIVIL PROCEEDINGS

21. Plaintiff and defendant may give evidence.

In all civil proceedings —

(a) the party making the claim shall be called the plaintiff; and

(b) the party against whom the claim is made shall be called the defendant,

and both the plaintiff and defendant may give evidence on oath.

22. Claims may not be split.

(1) No claim amounting in the whole to a sum exceeding the amount by which the jurisdiction of a magistrate is limited by any Act shall be split so as to be made the ground of two or more different summonses in order to bring such cases within the jurisdiction of the magistrate.

(2) If the magistrate shall find that the plaintiff in any case has split his cause of action as aforesaid, he shall dismiss such summons or summonses but without prejudice to the plaintiff's right to sue on the cause of action in such other manner as he shall think fit.

(3) If the plaintiff is content to recover a sum not exceeding any amount by which the jurisdiction of the magistrate is limited, the magistrate shall entertain the summonses and in case any judgments shall be given in favour of the plaintiff the same shall be a full discharge and satisfaction of the whole cause of action and it shall be so expressed in the body of the judgment.

23. Set-off.

In any small cause the defendant may plead and prove a set-off or counter-claim against the plaintiff, provided that the amount claimed whether by set-off or counter-claim does not exceed the amount by which the jurisdiction of the magistrate is limited in the particular case.

24. Powers of compulsion on witnesses.

Any person summoned to give evidence or to produce any document, and failing or refusing to obey such summons, and any person present and required to give evidence refusing to be sworn or to give evidence, shall (unless he satisfies the magistrate that he has a reasonable excuse for so failing or refusing) be liable to pay a fine of one hundred dollars.

25. Magistrate may order a new trial.

A magistrate may order a new trial to be had between the parties upon such terms as to costs or otherwise as he shall think reasonable, and in the meantime stay all proceedings.

26. Fees in civil proceedings.

(1) Fees shall be charged and paid in advance upon civil proceedings taken and heard before a magistrate.

(2) In cases where 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, the magistrate may in his discretion remit the same.

(3) In all such cases if judgment is given for the plaintiff, such fees as would in other cases be chargeable shall be charged to and recovered from the defendant.

27. Costs.

(1) The costs of all civil proceedings shall be in the discretion of the magistrate, and shall be limited to the fees comprised in rules made under this Act.

(2) The magistrate may in addition to such fees, in his discretion, allow —

(a) any reasonable sum or sums, not exceeding one thousand and five hundred dollars by way of compensation for the attendance and loss of time of the parties and witnesses; and

(b) attorney's costs, and all sums so allowed in any civil proceeding to be recovered as costs therein.

28. Execution.

Every judgment or order may be enforced by sale of the goods of the defendant, or by attachment of moneys due to him by any third party and the magistrate shall have power to hear and determine all matters of interpleader.

29. Judgments not to be enforced by imprisonment.

No judgment or order, or order for the payment of any costs awarded shall be enforced by imprisonment except as hereinafter prescribed.

30. Except in the case of a judgment debtor on a judgment summons.

Where any defendant shall make default in the payment of any judgment debt, or of any sum ordered to be paid, or any instalment, or any costs, and he either has or has had since the date of the order the means to pay the same and has refused or neglected or refuses or neglects to pay the same, the magistrate may —

(a) commit him to prison without hard labour for up to six weeks or until payment of the sum due; and

(b) issue all necessary warrants in that behalf.

31. Magistrate may require the doing or abstaining from doing any act.

Where power is given by any Act to a magistrate of requiring any person to do or abstain from doing any act or thing other than the payment of money or requiring any act or thing to be done or left undone other than the payment of money and no mode is prescribed for the enforcing such requisition, the magistrate may—

(a) exercise such power by an order;

(b) annex to the order any conditions as to time or mode of action as to him may seem just;

(c) suspend or rescind such order on such undertaking being given or condition being performed as to him may seem just; and

(d) make such arrangements for carrying such power into effect as may seem expedient.

32. Magistrate may order a penalty *per diem* or imprisonment.

(1) A person making default in complying with the order of a magistrate other than for the payment of money for the period of ten days, may, if it be not otherwise provided in the Act on which such order is based, upon application to a magistrate, and on proof of such default, be ordered to pay a sum not exceeding fifty dollars for every day during which he is in default, or to be imprisoned until he has remedied his default, and any sum ordered to be paid shall be recoverable summarily as a civil debt.

(2) No person shall for non-compliance with the requisition of the magistrate, whether made by one or more orders, to do or to abstain from doing any particular act or thing, be liable to be imprisoned for a period or periods amounting in the aggregate to more than six months, or to the payment of any sums exceeding in the aggregate one thousand dollars.

PART IV – APPEALS

33. When an appeal lies.

(1) An appeal shall lie from the decision of a magistrate given in the exercise of his summary jurisdiction, whether matrimonial or civil, in the following cases only, that is to say —

(a) in civil proceedings, when the sum claimed exceeds one hundred dollars exclusive of costs;

(b) in civil proceedings, when the order for imprisonment was not only made for —

(i) the enforcing of a judgment or order for the payment of money;

(ii) failure to comply with an order for the doing or abstaining from doing any act or thing required to be done or left undone; or

(iii) the finding of sureties or for the entering into recognisances for the giving of security.

(2) Appeals under this section shall lie —

(a) where the case has been heard by the Chief Magistrate of a magistrate, to the Supreme Court;

(b) in all other cases, to the Chief Magistrate, a magistrate or a magistrate on circuit.

34. Duty of magistrate on giving appealable decision.

A magistrate, upon giving any decision which is appealable, shall —

(a) inform the party to whom the decision is adverse that he has a right to appeal, and the steps to be taken by the party; and

(b) make note that such information pursuant to paragraph (a) has been given to the party by the magistrate, which shall serve as conclusive evidence that the provisions of this section have been complied with.

35. Appeal operates as a stay.

An appeal shall have the effect of suspending the execution of a decision appealed from until the case shall have been determined.

36. Appellant to serve notice in writing of intention to appeal.

(1) An appellant shall, within seven days after the day on which the magistrate has given his decision, serve a notice in writing, signed by the appellant or his counsel or attorney, on the other party and on the magistrate of his intention to appeal and of the general grounds of his appeal.

(2) Any person aggrieved by the decision of a magistrate may, upon notice to the other party, apply to the court to which an appeal from such decision lies, for leave to extend the time within which the notice of appeal may be served.

(3) The court upon the hearing the application may extend the time prescribed as it deems fit.

37. Recognisance or security to be taken.

(1) The appellant shall within three days after the day on which he served notice of his intention to appeal —

(a) enter into a recognisance before a magistrate, with or without sureties as the magistrate may direct, conditioned to prosecute the appeal to judgment and to abide the judgment thereon of the court and pay such costs as may be awarded by it; or

(b) if the magistrate thinks it expedient, the appellant may give such other security by deposit of money with the magistrate or otherwise as the magistrate deems sufficient.

(2) The appellant on entering into recognisances as aforesaid, shall be entitled to receive on payment of the prescribed fee —

(a) a copy of the evidence taken by the magistrate; and

(b) a copy of the order or judgment made or given.

38. Transmission of appeal papers to Registrar of Supreme Court.

(1) When a case has been heard in New Providence, the magistrate shall without delay transmit to the Registrar of the Supreme Court —

(a) a copy of the order or judgment; and

(b) all papers relating to the appeal,

and if the appellant is represented by counsel or an attorney, such counsel or attorney, shall not less than three days prior to the date of the hearing serve upon the Registrar and the respondent a notice containing particulars of the matters of law or of fact in regard to which the magistrate is alleged to have erred.

(2) When a case has been heard in a Family Island district, the magistrate shall without delay notify the circuit justice of the lodging of the appeal, and shall deliver a copy of the order or judgment and all papers relating to the appeal to the circuit justice on his arrival in such island.

39. Procedure on hearing of appeal.

(1) At the hearing of an appeal, unless the court considers the justice of the case requires a re-hearing the appellant shall begin by stating all the grounds of appeal on which he intends to rely.

(2) The appellant shall not —

(a) without leave of the court, go into any matters not raised in the grounds of appeal;

(b) be entitled to examine any witnesses not examined at the hearing of the case before the magistrate, unless he has given to the respondent three clear days' notice in writing of the names and addresses of such witnesses and of the substance of the evidence they will give and unless he has subsequently obtained the leave of the court to the examination thereof.

(3) The court may—

(a) draw inferences of fact from the evidence given before the magistrate, and, subject to due notice having been given as hereinbefore mentioned shall hear any further evidence tendered by the appellant and if it think fit, take and admit —

(i) any further evidence tendered in reply;

(ii) any other evidence as it may require,

and may decide the appeal with reference both to matters of fact and to matters of law.

(b) hear and determine the case upon the merits, notwithstanding any defect in form or otherwise in the order or judgment.

(4) Unless the appellant satisfies the court that it is necessary to call on the respondent, the order or judgment shall be confirmed.

(5) If the court directs a re-hearing, the respondent, (if the issue is with him) shall begin and prove his case, and the court may, if the justice of the case requires it, adjourn the hearing to a convenient day.

40. Powers of court on hearing appeals.

The court may adjourn the hearing of the appeal, and may upon the hearing thereof —

(a) confirm, reverse, vary or modify the decision of the magistrate;

(b) remit the matter with the opinion of the court thereon to the magistrate; or

(c) make such other order in the matter as it may think just, and exercise any power which the magistrate might have exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the magistrate.

41. No appeal on point of form or matter of variance.

No judgment shall be given in favour of the appellant if the appeal is based on —

(a) an objection to any summons or warrant for any alleged defect therein in matter of substance; or

(b) for any variance between such summons or warrant, and the evidence adduced in support thereof,

unless it be proved that such objection was raised before the magistrate whose decision is appealed against, and the appellant had been deceived or misled, thereby and such magistrate refused to adjourn the hearing of the case to a future day.

42. Costs.

(1) The court may make such order as to the costs to be paid by either party as it may think just, and in the event of costs being allowed may direct a lump sum to be paid by way of costs not exceeding five hundred dollars, for each day of attendance at court according to the importance of the appeal, or the length of time occupied by the hearing thereof, and such sum shall cover all fees of office and all fees of counsel or attorney.

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

(3) If the costs on the appeal (other than an appeal from a decision of a magistrate in civil proceedings) are not paid within the time ordered by the court, the proper officer shall —

(a) on the application of the party entitled to the same, or any person duly authorised on his behalf; and

(b) 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 any magistrate in the district where the case was heard, such magistrate shall enforce the —

(i) payment of costs in the manner prescribed by the Criminal Procedure Code Act for enforcing the payment of a fine imposed on a summary conviction; and

(ii) where a recognisance with sureties has been entered into, payment due thereunder in the manner prescribed by this Act.

(4) On an appeal from a decision of a magistrate in civil proceedings, the court shall not order imprisonment for the enforcing payment of any costs except as provided by this Act relating to civil proceedings.

(5) Where an appeal is abandoned or withdrawn, the court, 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 may allow, and such costs shall be recoverable as hereinafter provided.

(6) No magistrate shall be liable to any costs in respect of any appeal against his decision.

43. No *certiorari*.

No —

(a) order shall be quashed for want of form or removed by certiorari into any other court; and

(b) warrant of commitment shall be held void by reason of any defect therein,

provided that it be therein alleged that the party has been ordered to do or abstain from doing any act or thing required to be done or left undone, and there be a good and valid order to sustain the same.

44. Where decision of magistrate is confirmed or not confirmed.

Whenever the decision of a magistrate is —

(a) confirmed on appeal, the Registrar of the Supreme Court shall inform the magistrate of such confirmation, and thereupon the magistrate sitting for the same district may issue a warrant of distress, or commitment, or writ of execution, as the case may be, for enforcing such decision in the same manner as though no appeal had been brought;

(b) not confirmed on appeal, the Registrar of the Supreme Court shall send to the magistrate, from whose decision the appeal was made, for entry in his register, and shall also endorse on the order or judgment appealed against, a memorandum of the decision of the court, and whenever any copy of certificate of such judgment or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the decision on appeal in every case where such copy or certificate would be sufficient evidence of such order or judgment.

45. Notice required to be served upon the parties to an appeal.

(1) It shall be the duty of any magistrate in a Family Island against whose decision an appeal has been entered, on receiving notice by the *Gazette* of the circuit of the circuit magistrate, to serve a notice upon the parties to the appeal stating as nearly as possible the date at which the circuit magistrate may be expected at the place at which the appeal is to be heard, and the appeal shall not be heard in the absence of either party unless it shall be proved to the circuit magistrate that such party has been duly served with a notice under this section.

(2) On the entering of an appeal in a Family Island, each of the parties to the appeal shall forthwith serve on the magistrate of the district

in which the appeal is to be heard, a notice in writing stating an address for service in The Bahamas.

(3) Service of the notice referred to under subsection (2), shall be good and sufficient service on the parties, provided further that such address for service may be altered by either party giving notice of a change of address to be served on the magistrate at any time before the service of the said notice of hearing and in the event of no such address for service being given, the circuit magistrate may deal with the case in the absence of both or either of the parties.

(4) A peace officer or other person serving any such notice shall be entitled to such fees as may be prescribed and all such fees shall be costs in the appeal.

PART V — DISTRESS

46. Execution of warrant of distress.

(1) A warrant of distress shall be executed by or under the direction of a peace officer.

(2) A peace officer shall not execute a warrant where a person —

(a) pays or tenders to the peace officer charged with the execution of the warrant of distress, the sum mentioned in the warrant; or

(b) produces a receipt to the magistrate issuing the warrant or his clerk, for the sum mentioned in the the warrant and for the costs and charges of such distress up to the time of such payment or tender.

47. Warrant of distress not to be impeached for want of form.

(1) A warrant of distress shall not be deemed void by reason only of any defect therein if it be therein alleged that an order has been made and there is a good and valid order to sustain the same.

(2) No peace officer acting under any warrant shall be deemed a trespasser from the beginning by reason of any defect in the warrant, or of any irregularity in the issue of the warrant.

(3) This section shall not prejudice the right of any person to satisfaction for any special damage caused by any irregularity in the execution of a warrant, so that if —

(a) amends are tendered before action brought; and

(b) the action is brought and the amends are paid into court in the action; and

(c) the plaintiff does not recover more than the sum so tendered and paid into court,

the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs to be taxed as between attorney and client.

48. What may not be taken.

The wearing apparel and bedding of a person and his family, and to the value of fifteen hundred dollars the tools and implements of his trade, shall not be taken under a distress issued by a magistrate.

49. Public auction after five days.

Save so far as the person against whom the distress is levied 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.

50. Sale within fourteen days.

Subject as aforesaid, 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 the making of the distress, unless the sum for which the warrant was issued, and the charges of taking and keeping the said distress, are sooner paid.

51. Impounding goods levied on.

(1) 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 so levied, be removed from the house until the day of sale,

(2) The person executing the warrant shall in his opinion, impound no more of the goods than would be sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark.

52. Account to be sent to magistrate of costs.

(1) A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall be sent by the peace officer charged with the execution of the warrant so soon as practicable to the magistrate issuing the warrant.

(2) It shall be lawful for the person upon whose goods the distress was levied, within one month after the levy of the distress, to inspect such account without fee or reward at any reasonable time to be appointed by the magistrate, and to take a copy of such account.

53. Costs of sale to be deducted from proceeds.

A peace officer charged with the execution of a warrant of distress shall—

(a) cause the distress to be sold, and may deduct out of the amount realised by such sale all costs and charges actually incurred in effecting such sale; and

(b) render to the owner the over plus, 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.

54. Replevy.

(1) It shall be lawful for any person other than the person mentioned in the warrant, claiming to be the owner of the property levied on, within the five clear days specified in section 49, to cause to be repleived in the manner and form in which goods are replevied which have been distrained upon for non-payment of rent.

(2) If within the five days specified in subsection (1), the property levied on is not replevied, no person other than the person mentioned in the warrant aforesaid shall have any right of action against any other person in respect of such property.

PART VI — MISCELLANEOUS

55. Administrator, Deputy Administrator and Assistant Administrator of the magisterial courts.

(1) The Administrator, Deputy Administrator and Assistant Administrator of the magisterial courts, and such other officers as are attached to the office of the Administrator, shall assist the Chief Executive Officer appointed pursuant to the Court Services Act, 2023, to perform such administrative functions as are necessary for the due conduct and discharge of business of the magisterial courts

and shall have such other powers and authorities and perform such other functions necessary for the due conduct and discharge of the business of the magisterial courts, and as the Chief Executive Officer shall direct.

(2) The powers, authorities and the performance of duties necessary for the due conduct and discharge of the business of the court in subsection (2) shall not include the performance by the Registrar of any administrative or financial powers, authorities or duties.

56. Damages.

Where a plaintiff is entitled to recover and prove —

(a) the levying or payment of any penalty; or

(b) the sum of money under any conviction or order as parcel of the damages for any such imprisonment,

he shall not be entitled to recover —

(i) the amount of such penalty or sum so levied or paid;

(ii) any sum as damages for such imprisonment; or

(iii) any costs of suit whatsoever,

if it is proved that he was —

(aa) actually guilty of the offence of which he was convicted; or

(bb) 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—

(AA) assigned by law for the offence of which he was so convicted; or

(BB) for non-payment of the sum he was so ordered to pay.

57. Expenses provided for.

(1) The Minister of Finance may from time to time grant warrants upon the Treasury for the payment of expenses specified in paragraphs (a) or (b), upon being satisfied that the services charged for were —

(a) actually performed and fair and reasonable; and

(b) for the due and proper administration of justice, namely for the —

(i) payment of such sums as appear to the magistrate reasonably sufficient to compensate any witness for the expense, trouble or loss of time properly incurred

in or incidental to his attendance and giving evidence; and

(ii) expenses attending the conveyance of any such witness from his ordinary place of abode to the place where the trial or investigation may be held.

(2) In this section, the expression "witness" means a person properly attending to give evidence, whether or not he gives evidence.

58. Description of the property of partners, etc.

(1) In any proceeding, in which it is necessary to state the ownership of any property belonging to or in possession of partners, joint-tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another, or others as the case may be.

(2) Whenever in any proceedings, it is necessary —

(a) to mention for any purpose whatsoever any partners, joint-tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and

(b) to describe the ownership of any work or building made, maintained or repaired at the expense of any corporation, or the inhabitants of any place, or of any materials for the making or repairing the same, they may be described as the property of the inhabitants of such place.

59. No objection to be allowed on point of form or variance.

No objection shall be allowed to any summons or warrant for any alleged defect therein in substance or in form.

60. Proof by declaration of service of process or of handwriting, etc.

(1) In a proceeding within the jurisdiction of a magistrate, without prejudice to any other mode of proof, service on a person of any summons, notice, process or document required or authorised to be served, and the handwriting and seal of any magistrate or other officer or person on any warrant, summons, notice, process or document may be proved by a solemn declaration taken before a magistrate or before any person authorised to take declarations, and any declarations purporting to be so taken shall —

(a) until the contrary is shown, be sufficient proof of the statements contained therein; and

(b) be received in evidence in any court or legal proceeding without proof of the signature or of the official character of the person or persons taking or signing the same.

(2) The declaration may be in the form provided by a rule under this Act, and if any declaration made under this section is untrue in any material particular, the person wilfully making such false declaration shall be guilty of wilful and corrupt perjury.

61. Disposal of fees, fines, etc.

All fees, proceeds of forfeitures and other moneys coming into the hands of a magistrate or a clerk of the magistrate shall be paid in accordance with the Court Services Act, 2023.

62. Rules.

The Rules Committee under section 75 of the Supreme Court Act may from time to time make rules in relation to the following matters, or any of them, that is to say —

(a) the giving of security under this Act;

(b) the regulating of all civil proceedings under this Act;

(c) the forms to be used under this Act;

(d) the regulating of the form of the register and the account to be rendered by magistrates or clerks of magistrates of fees, and other sums received by them;

(e) the regulating of the procedure on appeals by special case or otherwise under this Act;

(f) any other matter in relation to which rules are required to be made under or for the purpose of carrying this Act into effect;

(g) the rates or scales of payment of expenses of witnesses under section 93 of this Act;

(h) the regulating of the procedure for entering into a recognisance on appeal.

63. Savings.

For the avoidance of doubt, nothing in this Act shall be construed to prohibit a magistrate from transferring complex proceedings to the Supreme Court in New Providence or Grand Bahama, as the case may be, where a magistrate deems a transfer necessary.

64. Repeal of Ch 54.

The Magistrates Act is hereby repealed.

OBJECTS AND REASONS

This Bill seeks to modernize, repeal and replace the Magistrates Act. The Bill seeks to retain most of the provisions of the current Act and remains substantially unchanged except for —

(a) the Bill excludes the provisions relating to Justices of the Peace, which are dealt with under a separate Bill;

(b) the Bill seeks to exclude outdated provisions, which no longer apply or are governed by more recent legislation, in particular, as it relates to the Part on the destruction of animals;

(c) the Bill alters certain references throughout, particularly, the reference to "stipendiary and circuit magistrate";

(d) the Bill seeks to provide for immunity for Magistrates similar to judges of the Supreme Court;

(e) the increase of the fine with respect to powers of compulsion from twenty dollars to one hundred dollars;

(f) the Bill permits the Chief Magistrate to transfer any civil proceeding listed in a magisterial court to any other magisterial court;

(g) the Bill removes the Rules originally contained in the Schedule, which will be provided for in Rules made by the Rules Committee.