

CHAPTER 10:02

SUMMARY JURISDICTION (PROCEDURE) ACT

ARRANGEMENT OF SECTIONS

PRELIMINARY

SECTION

1. Short title.
2. Interpretation.
3. Application of Act.

PART I

INSTITUTION OF PROCEEDINGS

Making of Complaint

4. Mode of instituting proceeding.
5. General right of making complaint.
6. Limitation of complaint.
7. Form and requisites of complaint.
8. Special procedure in respect of certain offences.
9. Statement of exception.
10. Averment in complaint or information sufficient to confer jurisdiction.

Search Warrant

11. Issue of search warrant and proceedings thereunder.

Enforcing Appearance of Defendant

12. Issue of summons to defendant.
13. Service of summons on defendant.
14. Hearing *ex parte* or issue of warrant, on non-appearance of defendant.
15. Issue of warrant for defendant in first instance.

PART II

WITNESSES

Enforcing Attendance of Witness

SECTION

16. Issue of summons for witness.
17. Service of summons on witness.
18. Warrant for witness after summons.
19. Issue of warrant for witness in first instance.
20. Dealing with witness arrested under warrant.
21. Non-attendance of witness on adjourned hearing.

Refractory Witness

22. Dealing with witness refusing to be sworn or to give evidence.

PART III

HEARING AND ORDER

Hearing of Complaint

23. Time and place of hearing.
24. Conduct of case.
25. Non-appearance of complainant.
26. Non-appearance of defendant.
27. Inquiry in cases of absence of defendant on ground of illness.
28. Non-appearance of both parties.
29. Appearance of both parties.
30. Hearing.
31. Hearing of complaints together.
32. Addresses.

Adjournment of Hearing

33. Adjournment and proceeding thereon.

Transfer of Cause

SECTION

34. Transfer of cause where ground of complaint has arisen out of jurisdiction of the court.
35. Reduction of charge from indictable to summary conviction offence.
36. Where charge appears to be one proper for indictment.

Making of Order

37. (1) Time and decision and order.
(2) Powers of magistrate no longer in magisterial district.
38. Imprisonment in default of payment of penalty.
39. Power to impose a fine in lieu of imprisonment.
40. Scale of imprisonment for non-payment of money adjudged to be paid by order.
41. (1) Attempt. Full offence charged—attempt proved.
(2) Attempt charged—full offence proved.
42. Full offence charged—part proved.
43. (1) Embezzlement charged—larceny proved and *vice versa*.
(5) Larceny or receiving charged and offence under s. 94 of Cap.14 proved.
44. Discharging defendant without punishment.

Costs and Compensation

45. Order for costs and compensation.

PART IV

ENFORCEMENT OF ORDER

46. Powers of the court as to mode of payment of money adjudged to be paid by order.
47. Allowance of further time.
48. Deposit of money in lieu of surety.

Warrant of Distress

SECTION

- 49. Distress warrant.
- 50. Commitment or security until return made to distress warrant.
- 51. Imprisonment in default of distress.
- 52. General provisions with respect to distress warrants.
- 53. Payment of amount of distress warrant.

Commitment of Defendant

- 54. Committal of defendant in certain cases.
- 55. Payment of amount due on warrant of commitment.
- 56. Obligation to allow time for payment of penalties.
- 57. Postponing issue of warrant of commitment.
- 58. Commencement of imprisonment.
- 59. Varying or discharging of order for sureties.
- 60. (1) Proportionate reduction of term of imprisonment on part payment of sum adjudged to be paid.
(2) Right of person imprisoned in default to be released on payment of sum adjudged to be paid.
- 61. Determination of liability of defendant on satisfaction of, or discharge from, order.

Summary Order

- 62. Summary order to do specific act.

PART V

SUMMARY TRIAL OF INDICTABLE OFFENCES

- 63. Summary trial of indictable offences.
- 64. Summary trial for offences by debtors.
- 65. Remand of person charged.
- 66. General provisions as to dealing summarily with indictable offences.

PART VI

MISCELLANEOUS PROVISIONS

Ownership of Property

SECTION

- 67. Statement of ownership of property.
- 68. Statement of ownership of church.
- 69. Statement of ownership of public property.
- 70. Remedies by criminal proceedings for married woman against her husband and others in respect of property.
- 71. Criminal liability of wife to husband.

Arrest

- 72. Arrest of offender in certain cases.
- 73. Bail where offender taken into custody without warrant.
- 74. Form and requisites of warrant of apprehension.
- 75. Execution of warrant.
- 76. Handcuffing of person arrested.
- 77. Police station to be lock-up.

Seizure and Restitution of Property

- 78. Seizure of property the proceeds of summary conviction offence.
- 79. Seizure of things intended to be used in commission of summary conviction offence.
- 80. Enforcement of order of seizure.
- 81. Return of property found on person apprehended.
- 82. Application of money found on person apprehended.
- 83. Restitution of property in case of conviction.

Keeping the Peace

- 84. Articles of the peace.
- 85. Binding over parties to be of good behaviour.
- 86. Enforcement of recognisance to keep the peace or to be of good behaviour.

SECTION

- 87. Bringing up person imprisoned for want of sureties.
- 88. Sanction of compromise.

Commitment of Vagrants and Rogues to Alms-house

- 89. Power to make order for detention of vagrants in alms-house.
- 90. Time of detention.
- 91. Power to order discharge of person detained.
- 92. Discharge of person detained on security being given.
- 93. Transfer to hospital of person detained in case of illness.
- 94. Arrest of person detained in case of escape.

Saving of Validity of Process

- 95. Provisions as to certain proceedings in the court.
- 96. No objection to jurisdiction unless taken at hearing.
- 97. Effect of variance or defect in proceedings.

Proof of Process

- 98. (1) Proof of service of process by bailiff or constable.
(2) Proof of service of process.
- 99. Proof of previous conviction.

Enforcement of Recognisance

- 100. Mode of enforcement.

Appropriation of Penalties and Seizures

- 101. Appropriation of penalties and seizures.
- 102. Dealing with forfeiture not pecuniary.
- 103. Remission by President of penalties.
- 104. Effect of acquiescence in remission.
- 105. Payment of sum adjudged to be paid by person imprisoned in default of payment.
- 106. Keeping account of moneys received.
- 107. Taking of recognisance.

Records

SECTION

- 108. Record book of proceedings.
- 109. Register of minutes of orders.
- 110. Custody of records.

Forms

- 111. Use of forms in Second Schedule.
 - 112. Form of complaint, summons, warrant or other document.
- FIRST SCHEDULE—Indictable offences by adults which may be tried summarily.
- SECOND SCHEDULE—Forms for use in proceedings relating to summary conviction offences.

CHAPTER 10:02

SUMMARY JURISDICTION (PROCEDURE) ACT

An Act to consolidate and amend the Laws relating to Procedure with respect to Offences punishable on Summary Conviction.

1929 Ed.
c. 14
1953 Ed.
c. 15

12 of 1893

[1ST MARCH, 1894]

PRELIMINARY

1. This Act may be cited as the Summary Jurisdiction (Procedure) Act.

Shorttitle.

2. In this Act—

“adult” means a person who, in the opinion of the court, is of or above the age of sixteen years;

Interpretation.
[11 of 1931]

“child” means a person who, in the opinion of the court, is under the age of fourteen years;

LAWS OF GUYANA

10

Cap. 10:02

Summary Jurisdiction (Procedure)

“the clerk” means the clerk of the court;

“complainant” includes any informant or prosecutor in any case relating to a summary conviction offence;

“complaint” includes any information or charge relating to a summary conviction offence;

“counsel” includes a solicitor;

“the court” means a magistrate’s court acting in the exercise of its jurisdiction in respect of summary conviction offences;

“defendant” means any person against whom a complaint is made;

“indictable offence” means any offence punishable on indictment before the High Court;

“keeper” when used in relation to a prison, includes the superintendent or other chief resident officer of the prison;

“order” includes any conviction in respect of a summary conviction offence;

“penalty” includes any pecuniary fine, forfeiture, or compensation recoverable or payable under an order;

“prison” includes any lock-up house, police-cell, or other duly authorised place of detention for persons in custody;

“sum of money adjudged to be paid by an order” includes any costs, or costs and compensation, or costs and damages, adjudged to be paid by the order, of which the amount is fixed by the order;

“summary conviction offence” means any offence punishable on summary conviction before the court, and includes any matter in respect of which the court can make an order in the exercise of its summary jurisdiction.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

11

3. Unless the contrary is expressly provided by any written law relating thereto, this Act shall extend and apply to all proceedings which may be taken in respect of summary conviction offences, whether those offences are constituted before, or at the time of, or after, the commencement hereof.

Application of Act.

PART I

INSTITUTION OF PROCEEDINGS

Making of Complaint

4. Every proceeding in the court for the obtaining of an order against any person in respect of a summary conviction offence shall be instituted by a complaint made before the magistrate of the court.

Mode of instituting proceeding. Forms 1 and 20.

5. Anyone may make a complaint against any person committing a summary conviction offence unless it appears from the written law on which the complaint is founded that a complaint for that offence shall be made only by a particular person or class of persons.

General right of making complaint.

6. In every case where no time is specially limited for making a complaint for a summary conviction offence in the written law relating to that offence, the complaint shall be made within six months from the time when the matter of the complaint arose, and not after.

Limitation of complaint.

7. (1) No complaint need be in writing, unless it is required to be so by the written law on which it is founded or by some other written law, but if a complaint is not made in writing, the clerk shall reduce it into writing.

Form and requisites of complaint.

(2) Subject to section 14 every complaint may, unless some written law otherwise requires, be made without any oath being made of the truth thereof.

(3) A complaint may be made by the complainant in person, or by his counsel, or by any person authorised in writing in that behalf, and shall be for one offence only.

(4) The description of any offence in the words of the written law creating the offence, or in similar words, with a specification so far as practicable of the time and place when and where the offence was committed, shall be sufficient in law.

Special
procedure in
respect of
certain
offences.
[14 of 1959
28 of 1970
4 of 1972
O.166/1974
O.167/1974
6 of 1997]
Form 4.
[13 of 1998]

8. (1) Notwithstanding section 12(1), where any member of the Police Force finds that an offence to which this section applies has been committed or is being committed in any place, it shall be lawful for such member of the Police Force then and there to serve upon the person alleged to be the offender a notice charging him with the commission of such offence, and notifying him that a complaint will be made against him in respect of the said offence and requiring him to appear at the court specified in the notice on the day and at the hour stated therein to answer the said complaint.

(2) A person upon whom a member of the Police Force has served a notice under subsection (1) may, in lieu of being prosecuted for the alleged offence, pay to the clerk of the court of the magisterial district in which the offence was committed, within seven days from the date of the issue of the notice, such penalty as the Minister may by order prescribe for the offence.

(3) The Minister may by order amend or revoke any order made under subsection (2).

(4) A notice under subsection (1) shall be served on the alleged offender personally, and the date stated in the notice as the day on which the alleged offender is required to appear at court shall be at least fourteen days after the date of the issue of the notice.

(5) If the alleged offender pays the penalty within the time specified in subsection (2), the provisions hereinafter contained in this section in respect of his duties and liabilities shall not apply.

(6) If the alleged offender does not exercise the option of paying a penalty as provided for in subsection (2), the member of the Police Force shall, on the date stated in the notice as the day on which the

alleged offender is required to appear at court, make in the court specified in the notice a complaint against the alleged offender for the offence mentioned in the notice.

(7) Upon the service of a notice under subsection (1), the alleged offender shall be subject to the same duties and liabilities as if he had entered, under section 73, into a recognisance in the sum of one thousand six hundred and twenty-five dollars to appear before the court specified in the notice on the day and at the hour stated therein to answer the complaint referred to in the notice and to be further dealt with according to law.

(8) If a complaint has been duly made under subsection (6) and the alleged offender does not appear at the court at the time mentioned in the notice, the court may proceed in accordance with sections 14 and 26 and for this purpose the said sections shall be read as if the word “notice” were substituted for the word “summons” wherever it appears therein.

(9) If the alleged offender appears at the time mentioned in the notice and a complaint has been duly made under subsection (6), the court shall proceed to hear and determine the complaint.

(10) This section shall apply to—

(a) offences against section 153 of the Summary Jurisdiction (Offences) Act;

c. 8:02

(b) offences against sections 13, 15, 23, 25, 34, 40, 46, 50, 55, 56, 57, 58, 59, and 61 of the Motor Vehicles and Road Traffic Act;

c. 51:02

(c) offences against the Motor Vehicles and Road Traffic Regulations;

c. 51:02

(d) offences against the General Traffic Directions made by the Commissioner of Police on the 24th November, 1937, under the Summary Jurisdiction (Offences) Act and continued in force by section 117 of the Motor Vehicles and Road Traffic Act;

c. 8:02

LAWS OF GUYANA

14

Cap. 10:02

Summary Jurisdiction (Procedure)

c.47:01

(e) offences against any order made by the Licensing Authority under section 48, 51 or 102 of the Motor Vehicles and Road Traffic Act;

(f) offences against the Road Traffic (Georgetown) Regulations;

(g) offences under section 63(3) of the Post and Telegraph Act in respect of broadcast receiving sets.

(11) Subject to negative resolution of the National Assembly, the Minister may by order amend subsection (10) by making additions to or deletions from the offences referred to therein.

(12) Where a police constable finds a vehicle on an occasion and has reason to believe that on that occasion there is being or has been committed in respect of it an offence to which this section applies, being an offence—

(a) committed by reason of the vehicle obstructing the road, or waiting, or being left or parked or being loaded or unloaded in a road; or

(b) disclosed upon an examination of such vehicle,

he may proceed under this section as if he had found a person reasonably believed by him to be committing an offence and for that purpose a notice as mentioned in subsection (1) if affixed to the vehicle shall be deemed to be served pursuant to that subsection upon the person liable for the offence and notwithstanding anything to the contrary in any law the registered owner of such vehicle shall, for the purposes of any proceedings to be taken in a court in respect of such offence, be deemed to be the person liable for the offence:

Provided that if the registered owner at the time of entering his plea at the hearing of the offence alleges that he was not the driver, or the person in charge, of the vehicle at the time when the alleged offence was committed the court may cause a summons to be issued to the person who is alleged by the registered owner to have been the driver or the person in charge making him a co-defendant in the proceedings

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

15

and the court may after hearing the evidence and witnesses, if any, of all parties make such order as to the payment of any fine and costs as to the court may seem just.

(13) A notice if affixed to a vehicle under subsection (12) shall not be removed or interfered with except by or under the authority of the driver or person in charge of the vehicle or the person liable for the offence in question; and any person contravening this subsection shall be liable to a fine of not less than ten thousand dollars nor more than twenty thousand dollars.

[13 of 1998]

9. Any exception, exemption, proviso, condition, excuse or qualification, whether it does or does not accompany in the same section the description of the offence in the written law creating an offence, may be proved by the defendant, but need not be specified or negatived in the complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the complainant.

Statement of exception.

10. An averment in any complaint or information that an offence has been committed within a particular magisterial district shall, unless the contrary is proved, be sufficient to confer jurisdiction on a magistrate of that district to hear and determine the complaint or information, as the case may be.

Averment in complaint or information sufficient to confer jurisdiction.
[21 of 1978]

Search Warrant

11.(1) Any magistrate who is satisfied, by proof upon oath, that there is reasonable ground for believing that there is, in any building, ship, carriage, box, receptacle, or place—

Issue of search warrant and proceedings thereunder.

(a) anything upon, or in respect of which, any summary conviction offence has been or is suspected to have been committed for which, according to any written law for the time being in force, the offender may be arrested without warrant; or

(b) anything which there is reasonable ground for believing will afford evidence as to the commission of that

offence; or

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any offence against the person punishable on summary conviction, for which, according to any written law for the time being in force, the offender may be arrested without warrant,

Form 50.

may at any time issue a warrant under his hand, authorising some police or other constable named therein to search the building, ship, carriage, box, receptacle, or place for any of those things, and to seize and take it before the magistrate issuing the warrant or some other magistrate, to be by him dealt with according to law.

(2) Every search warrant may be issued and executed on a Sunday, and shall be executed between the hours of five o'clock in the morning and eight o'clock at night, but the magistrate, in his discretion, may, by the warrant, authorise the constable to execute it at any hour.

(3) When the thing is seized and brought before any magistrate, he may detain it, or cause it to be detained, taking reasonable care that it is preserved till the conclusion of the matter; and, if any appeal is brought, he may order it further to be detained for the purpose of or pending the appeal; and if no appeal is brought, the magistrate shall direct it to be restored to the person from whom it was taken, except in the cases hereinafter mentioned, unless he is authorised or required by law to dispose of it otherwise.

(4) If, under the warrant, there is brought before any magistrate any forged bank-note, bank-note paper, instrument or other thing, the possession of which, in the absence of lawful excuse, is an indictable offence according to any written law for the time being in force, the magistrate may direct that thing to be detained for production in evidence or to be otherwise dealt with as the case requires.

(5) If, under the warrant, there is brought before any magistrate any counterfeit coin or other thing, the possession of which, with knowledge of its nature and without lawful excuse, is a summary

conviction offence or an indictable offence according to any written law for the time being in force, that thing shall be delivered up to the Commissioner of Police, or to any person authorised by him to receive it, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

(6) If the thing to be searched for is gunpowder, or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the same powers and protection as are given by any written law for the time being in force to any person lawfully authorised to search for the thing, and the thing itself shall be disposed of in the same manner as directed by that written law or, in default of direction, as ordered by the Commissioner of Police.

Enforcing Appearance of Defendant

12. (1) Whenever a complaint is made before a magistrate that any person has committed, or is suspected to have committed, any summary conviction offence within his jurisdiction, the magistrate may issue his summons directed to that person, stating concisely the substance of the complaint, and requiring him to appear at a certain time not less than forty-eight hours after the service of the summons and at a certain place, before the court of the magistrate to answer the complaint, and to be further dealt with according to law:

Issue of
summons to
defendant.
Form 3.

Provided that the court may, if it thinks fit, with the consent of parties, hear and determine a complaint notwithstanding that the period of forty-eight hours may not have elapsed.

(2) Nothing herein contained shall oblige any magistrate to issue the summons in any case where the application for an order may by law be made *ex parte*.

13. The summons shall be served by a police or other constable upon the defendant either by delivering it to him personally, or, if he cannot, with the exercise of reasonable diligence, be encountered, by leaving it with some person for him at his last or most usual place of abode.

Service of
summons on
defendant.

LAWS OF GUYANA

18

Cap. 10:02

Summary Jurisdiction (Procedure)

Hearing *ex parte* or issue of warrant, on non-appearance of defendant.
[14 of 1959
4 of 1972]

14. (1) If the defendant does not appear before the court at the time and place mentioned in the summons, then, after proof upon oath, to the satisfaction of the court, that the summons was duly served or that the defendant wilfully avoids service, the court may, in its discretion, either—

(a) unless the law on which the complaint is founded otherwise directs, proceed *ex parte* to the hearing of the complaint, and adjudicate thereon as fully and effectually to all intents and purposes as if the defendant had personally appeared before it in obedience to the summons; or

(b) adjourn the hearing to some future day; or

Form 5A.

(c) issue a warrant to apprehend the person so summoned for avoiding service, and to bring him before the court to answer the complaint, and to be further dealt with according to law.

(2) A defendant in any proceedings before the court may be represented by counsel, and any defendant so represented shall be deemed not to be absent:

Provided that the appearance of a defendant by counsel shall not satisfy any provision in any enactment or any condition of any recognisance expressly requiring his presence.

Issue of warrant for defendant in first instance.

15. On a complaint in writing and upon oath being made before a magistrate for any summary conviction offence, the magistrate may, on good cause being shown to him for so doing, and on oath being made before him substantiating the matter of the complaint to his satisfaction, instead of issuing a summons, issue in the first instance a warrant to apprehend the person against whom the complaint has been made and to bring him before the court of the magistrate to answer the complaint, and to be further dealt with according to law.

Form 5B.
Form 24.

PART II

WITNESSES

Enforcing Attendance of Witness

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| <p>16. If, either before or on the hearing of any complaint, it appears to the magistrate, on the statement of the complainant or of the defendant or otherwise, that any person is likely to give material evidence for the complainant or for the defendant, the magistrate may issue a summons for that person, requiring him to attend, at a time and place to be mentioned therein, before the court of the magistrate to give evidence respecting the case, and to bring with him any documents relating thereto which may be in his possession, power, or control.</p> | <p>Issue of summons for witnesses.</p> <p>Form 6.</p> |
| <p>17. The summons shall be served by a police or other constable upon the person to whom it is directed, either by delivering it to him personally, or, if he cannot, with the exercise of reasonable diligence, be encountered, by leaving it with some person for him at his last or most usual place of abode.</p> | <p>Service of summons on witness.</p> |
| <p>18. If the person to whom the summons is directed does not attend before the court at the time and place mentioned therein, and no reasonable excuse is offered for his non-attendance then, after proof upon oath, to the satisfaction of the court, that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, the court, being satisfied by proof upon oath that he is likely to give material evidence and that a reasonable sum was paid or tendered, or was ready to be paid or tendered, to him for his expenses in that behalf, may issue a warrant to apprehend him, and to bring him, at a time and place to be mentioned in the warrant, before the court in order to testify as aforesaid.</p> | <p>Warrant for witness after summons.</p> <p>Form 7.</p> |
| <p>19. If the magistrate is satisfied, by proof upon oath, that any person likely to give material evidence, either for the complainant or for the defendant, will not attend to give evidence without being compelled to do so, then, instead of issuing a summons, he may issue a warrant in the first instance for the apprehension of that person.</p> | <p>Issue of warrant for witness in first instance.</p> <p>Form 8.</p> |

LAWS OF GUYANA

20

Cap. 10:02

Summary Jurisdiction (Procedure)

Dealing with
witness
arrested under
warrant.

20.(1) Every witness arrested under a warrant issued in the first instance shall, if the hearing of the cause for which his evidence is required is appointed for a time which is more than twenty-four hours after the arrest, be taken before a magistrate, and the magistrate may, on his furnishing security by recognisance, to the satisfaction of the magistrate, for his appearance at the hearing, order him to be released from custody, or shall, on his failing to furnish the security, order him to be detained for production at the hearing.

(2) A witness arrested or detained under this section shall not be kept in the same room or place as the defendant, if the defendant is in custody.

Non-atten-
dance of
witness on
adjourned
hearing.

21. Every witness who is present when the hearing or the further hearing of a cause is adjourned, or who has been duly notified of the time and place to which the hearing or further hearing is so adjourned, shall be bound to attend at that time and place, and, in default of so doing, may be dealt with in the same manner as if he had failed to attend before the court in obedience to a summons to attend and give evidence.

Refractory Witness

Dealing with
witness
refusing to be
sworn or to
give evidence.

22.(1) Where any person, attending either in obedience to a summons, or by virtue of a warrant, or being present in court and being verbally required by the court to give evidence in any cause—

- (a) refuses to be sworn as a witness; or
- (b) having been so sworn, refuses to answer any question put to him by or with the sanction of the court; or
- (c) refuses or neglects to produce any document which he is required by the court to produce,

without offering any sufficient excuse for his refusal or neglect, the court may, if it thinks fit, adjourn the hearing of the cause for any period not exceeding eight days, and may in the meantime, by warrant, commit the person to prison, unless he sooner consents to do what is so required of him.

Form 9.

(2) If the person, on being brought before the court at or before the adjourned hearing, again refuses to do what is so required of him, the court may, if it thinks fit, again adjourn the hearing of the cause, and commit him for the like period, and so again from time to time until he consents to do what is so required of him.

(3) Nothing herein contained shall affect the liability of the person to any other punishment or proceeding for refusing or neglecting to do what is so required of him, or shall prevent the court from disposing of the matter in the meantime, according to any other sufficient evidence taken by it.

PART III

HEARING AND ORDER

Hearing of Complaint

23. (1) On the day and at the place mentioned in the summons, or, as may be, on the day and at the place on and at which the defendant is brought before the court under a warrant, the cause with respect to which the complaint has been made shall be called for hearing in the court.

Time and
place of
hearing.

(2) The room or place in which the court is held for the purposes of the hearing shall be deemed an open and public court, to which the public generally may have access, so far as it can conveniently contain them.

24. Both the complainant and the defendant shall be entitled to conduct their respective cases in person or by counsel.

Conduct of
case.

25. If, when the cause is called, the defendant appears voluntarily in obedience to the summons, or is brought before the court under a warrant, and the complainant, having had due notice of the time and place of hearing (which shall be proved to the satisfaction of the court), does not appear in person or by counsel, the court shall dismiss the complaint, unless the court, having received a reasonable excuse for

Non-
appearance of
complainant.

the non-appearance of the complainant, or for other sufficient reason, thinks fit to adjourn the hearing thereof to some future day, upon such terms as the court thinks just.

Non-
appearance of
defendant.

26. (1) If, when the cause is called, the defendant does not appear, the court may, if it comes within the provisions of section 13, proceed as therein directed.

(2) If service of the summons is not proved to the satisfaction of the court, or if a warrant is issued for the apprehension of the defendant, the court may adjourn the hearing of the cause to some future day, in order that proper service may be effected or, as may be, until the defendant is apprehended.

(3) If the defendant is afterwards apprehended on a warrant as aforesaid, he shall be brought before the magistrate, who shall thereupon commit him by warrant to prison or to other safe custody he thinks fit, and order him to be brought at a certain time and place before the court; and of that time and place the complainant shall, by direction of the magistrate, be served with due notice.

Inquiry in
cases of
absence of
defendant on
ground of
illness.
[4 of 1980]

27. Without prejudice to any provision of this Act, where a defendant absents himself or seeks to absent himself from trial on the ground of illness the court may order him to submit himself for examination by a registered medical practitioner designated by the court in order to determine whether or not he is fit to attend the trial and thereafter the court may proceed with the trial in the absence of the defendant if—

- (a) he does not submit himself for the examination; or
- (b) the court having considered the report of the examination, together with any other report of any registered medical practitioner tendered by the defendant and, if necessary, the testimony on oath of any registered medical practitioner, is satisfied that the defendant is capable of attending the trial.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

23

28. If, when the cause is called, neither the complainant nor the defendant appears, the court shall make such order as the justice of the case requires.

Non-appearance of both parties.

29. If, when the cause is called, both the complainant and the defendant appear, the court shall proceed to hear and determine the complaint.

Appearance of both parties.

30. (1) At the commencement of the hearing, the court shall state to the defendant the substance of the complaint and ask him whether he is guilty or not guilty.

Hearing.

(2) If the defendant says that he is guilty and shows no cause, or no sufficient cause, why an order should not be made against him, the court shall make such order against him as the justice of the case requires.

(3) If the defendant says that he is not guilty, the witnesses on both sides shall, unless the court in any instance otherwise expressly orders, be called and placed out of court and out of hearing, under the charge of the proper officer of the court, or of some other person appointed by the court for that purpose.

(4) The court shall then proceed to hear the complainant and any witnesses he examines, and any other evidence he adduces in support of his complaint, and also to hear the defendant and any witnesses he examines, and any other evidence he adduces in his defence, and also, if the court thinks fit, to hear any witnesses the complainant examines in reply, if the defendant has examined any witnesses or given any evidence.

(5) The magistrate shall, in every case, take notes in writing of the evidence, or of so much thereof as is material, in a book to be kept for that purpose, and the book shall be signed by the magistrate at the conclusion of each day's proceeding:

Provided that, if the magistrate is from any cause unable to take the notes, they may be taken by the clerk under his direction.

LAWS OF GUYANA

24

Cap. 10:02

Summary Jurisdiction (Procedure)

Hearing of
complaints
together.
[2 of 1932
21 of 1975]

31. Any number of complaints for any number of offences may be heard together where the offences are founded on the same facts, or form or are a part of a series of offences of the same or a similar character:

Provided that if the court thinks it conducive to the ends of justice to do so, it may order that the defendant shall be tried upon any one or more of the complaints separately.

Addresses.

32. The complainant shall be entitled to address the court at the commencement of his case; the defendant shall be entitled to address the court at the commencement or the conclusion of his case, as he thinks fit; and if the defendant has examined any witnesses or given any evidence, the magistrate may allow the complainant to reply on the conclusion of the cause.

Adjournment of Hearing

Adjournment
and proceed-
ing thereon.

33. (1) At any time before or during the hearing of a complaint, the court may, in its discretion, adjourn the hearing to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or his or their respective counsel, or in the absence of a defendant, if it be proved to the satisfaction of the court that the defendant is unable to appear by reason of illness or any other unavoidable cause.

(2) Upon the adjournment, the court may—

Form 25.

(a) suffer the defendant to go at large; or
(b) commit him to prison or to other safe custody as the court thinks fit; but the committal shall not be for a longer term than eight days, the day following that on which the committal is made being counted as the first day; or

Form 33.
Form 34.

(c) discharge him upon his entering into a recognisance, with or without a surety or sureties conditioned for his appearance at the time and place to which the hearing or further hearing is so adjourned.

(3) If, at the time and place to which the hearing or further hearing is so adjourned, either or both of the parties does not or do not appear, the court may proceed to the hearing or further hearing as if the party or parties were present; or, if the complainant does not appear, the court may dismiss the complaint.

Form 18.

34. (1) If, on the hearing of any complaint, it appears that the ground of complaint arose beyond the limits of the jurisdiction of the court before which the complaint has been made, the court may, on being satisfied that it has no jurisdiction, direct the matter to be transferred to the court having jurisdiction where the ground of complaint arose.

Transfer of cause where ground of complaint has arisen out of jurisdiction of the court.

(2) If the defendant is in custody and the magistrate directing the transfer thinks it expedient that the custody should be continued, or, if he is not in custody, that he should be placed in custody, the magistrate shall direct him to be taken by a police or other constable before the magistrate having jurisdiction where the cause of complaint arose, and shall give a warrant for that purpose to the constable, and shall deliver to the constable the complaint and recognisance, if any, taken by the magistrate under this Act, to be delivered to the magistrate before whom the defendant is to be taken, and the complaint and recognisance, if any, shall be treated to all intents and purposes as if they had been taken by the last-mentioned magistrate.

Form 51.

(3) If the defendant is not continued or placed in custody as aforesaid, the magistrate shall inform the defendant that he has directed the transfer of the matter as aforesaid, and thereupon the provisions of the last preceding subsection, respecting the transmission and use of the documents in the matter, shall apply.

35. Where, on the holding of any preliminary inquiry on a charge of an indictable offence, the magistrate is of opinion that the evidence establishes, or appears likely to establish, the commission of a summary conviction offence of a like kind to the offence charged, or an abetment of, or an attempt or incitement to commit, that summary conviction offence, the magistrate may, if he thinks fit, inform the

Reduction of charge from indictable to summary conviction offence.

LAWS OF GUYANA

26

Cap. 10:02

Summary Jurisdiction (Procedure)

accused person accordingly, and all further proceedings in the matter thereafter shall be the same as if a complaint had been made against the person for the latter offence or abetment, attempt, or incitement:

Provided that in that case all witnesses already examined shall be recalled for cross-examination or further cross-examination, if the defendant so desires.

Where charge appears to be one proper for indictment.

36. If, on the hearing of a complaint, it appears to the court that the cause ought to be tried as an indictable offence before the High Court, or if the Director of Public Prosecutions intimates to the court his opinion in writing to that effect, all further proceedings in the cause as for a summary conviction offence shall be stayed, and depositions shall be taken, and the cause shall in all other respects be dealt with as if the charge had been originally one for an indictable offence.

Making of Order

Time of decision and order
[11 of 1937]

37. (1) The court shall at the conclusion of the hearing or within six weeks thereafter at a subsequent sitting give its decision in the cause, either by dismissing the complaint or by making such order against the defendant as the justice of the case requires.

Powers of magistrate no longer in magisterial district.
[11 of 1937]

(2) Where before the court gives decision, the magistrate ceases to exercise jurisdiction in the magisterial district or to hold office it shall be lawful for him, within six weeks of the conclusion of the hearing, to lodge with the clerk of the court his written decision. The court shall read the decision at the earliest opportunity after notice to the parties and the decision when read, shall be deemed to be the decision of the court.

Form 18.

Form 36.

(3) If the complaint is dismissed on the merits, the court shall, upon being required by or on behalf of the defendant at any time within six months after the dismissal, make a formal order of dismissal and give to the defendant a certificate thereof; and the certificate, upon production, shall be without further proof a bar to any subsequent complaint for the same matter against the defendant.

(4) If an order is made against the defendant, a concise minute or memorandum thereof shall be forthwith entered in a book to be kept for that purpose; and, if necessary, an order in proper form may be drawn up at any time thereafter:

Provided that any defendant who desires to have the order in his case formally drawn up may, at any time within five days from the date of adjudication, require the magistrate to do so; and thereupon it shall be the duty of the magistrate, within two days from the date of his being so required, formally to draw up the order, and the defendant shall be entitled to have a copy thereof without any fee being charged for the copy.

38. Where by any written law the court is empowered to impose a penalty for a summary conviction offence, it may, in the absence of express provision to the contrary in the same or any other written law, order a defendant who is convicted of the offence, in default of payment of the sum of money adjudged to be paid by the order, either forthwith, or at the times specified in the order, as the case may be, to be imprisoned in accordance with the scale set forth in section 40.

Imprisonment
in default of
payment of
penalty.
Form 10.
Form 11.
Form 14.

39. Where a person is convicted of any summary conviction offence for which the court, under any enactment for the time being in force, has authority to impose imprisonment and has not authority to impose a fine, the court, notwithstanding any such Act or other enactment, may, if it thinks that the justice of the case will be better met by a fine than by imprisonment, impose on the offender a fine not exceeding eighty thousand dollars, and not being of such amount as will, under this Act, subject the offender in default of payment of the fine to any greater term of imprisonment than that to which he is liable under the Act or other enactment authorising the imprisonment as aforesaid.

Power to
impose a fine
in lieu of
imprisonment.
[32 of 1947
2 of 1989
11 of 1997]
Form 27.
[13 of 1998]

40. Subject in every case to the provisions of the written law on which the order is founded, the period of imprisonment, whether with or without hard labour, which is imposed by the court in respect of the non-payment of any sum of money adjudged to be paid by an order shall be that period which, in the opinion of the court, will satisfy the justice of the case, and be according to the following scale:

Scale of im-
prisonment for
non-payment
of money
adjudged to be
paid by order.
[2 of 1989
11 of 1997]
[13 of 1998]

LAWS OF GUYANA

28

Cap. 10:02

Summary Jurisdiction (Procedure)

where the sum of money adjudged the period shall not exceed—
to be paid by an order—

[13 of 1998] does not exceed \$10,000twenty
days
exceeds \$10,000 but does not exceed \$15,000.....forty-two days
exceeds \$15,000 but does not exceed \$30,000.....twelve
weeks
exceeds \$30,000 but does not exceed \$50,000.....six months
exceeds \$50,000 but does not exceed \$70,000.....ten months
exceeds \$70,000eigh-
teen months

Attempt. Full
offence
charged—
attempt
proved.

41. (1) Where the complete commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the defendant may be convicted of the attempt, and punished accordingly; but after a conviction for the attempt, the defendant shall not be liable to be prosecuted again for the offence which he was charged with committing.

Attempt
charged—
full offence
proved.

(2) Where an attempt to commit an offence is charged, but the evidence establishes the commission of the full offence, the defendant may be convicted of the attempt and punished accordingly and shall not be entitled to have the complaint dismissed; but after a conviction for the attempt, the defendant shall not be liable to be prosecuted again for the offence which he was charged with attempting to commit.

Full offence
charged—
part proved.

42. Every complaint shall be deemed divisible; and if the commission of the offence charged, as described in the written law creating the offence, or as charged in the complaint, includes the commission of any other offence, the defendant may be convicted of any offence so included which is proved although the whole offence charged is not proved, or he may be convicted of an attempt to commit any offence so included.

43.(1) Where embezzlement, or the fraudulent application or disposition of anything, is charged, and the evidence establishes the commission of larceny of any kind, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of the larceny and punished accordingly.

Embezzlement charged—
larceny proved and *vice versa*.

(2) Where larceny of any kind is charged, and the evidence establishes the commission of embezzlement, or the fraudulent application or disposition of anything, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of the embezzlement or fraudulent application or disposition and punished accordingly.

(3) No person so convicted of embezzlement, fraudulent application or disposition, or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition, or embezzlement, upon the same facts.

(4) Where unlawful possession under section 94 of the Summary Jurisdiction (Offences) Act is charged and the evidence establishes the commission of the offence of larceny of any kind or of receiving stolen property, the defendant shall not be entitled to have the complaint dismissed, but may be convicted of the larceny or of receiving stolen property and shall be punished accordingly.

c. 8:02

(5) Where larceny of any kind is charged and the evidence establishes the receiving of any property knowing the same to have been stolen or the commission of an offence against section 94 of the Summary Jurisdiction (Offences) Act, the defendant shall not be entitled to have the complaint dismissed but he may be convicted of the offence the commission of which the evidence establishes and punished accordingly.

Larceny or receiving charged and offence under s. 94 of Cap. 8:02 proved. [21 of 1932]

(6) Where the receiving of any property knowing the same to have been stolen is charged and the evidence establishes the commission of larceny of any kind or of an offence against section 94 of the Summary Jurisdiction (Offences) Act, the defendant shall not be

c. 8:02

entitled to have the complaint dismissed but he may be convicted of the offence the commission of which the evidence establishes and punished accordingly.

(7) Where a person is charged with an offence as mentioned in subsections (4), (5) and (6), and the magistrate is of opinion that the evidence establishes one of the other offences referred to in the particular subsection, a charge for that other offence need not be made, but the magistrate shall endorse on the complaint the charge so established and shall adjourn the proceedings for another sitting of the court, unless the person charged or his counsel or solicitor prefers that the proceedings be there and then continued. The evidence which has already been taken shall be evidence in the new charge so far as relevant thereto, but the person charged may require any witness who has already given evidence to be recalled for cross-examination, and may call evidence on his own behalf.

Discharging
defendant
without
punishment.

44. If, on the hearing of any complaint, it appears to the court that, although the complaint is proved, the offence was, in the particular circumstances of the case, of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment—

Form 19.

(a) the court may, without proceeding to a conviction, dismiss the complaint and, if it thinks fit, order the defendant to pay such damages, not exceeding ten dollars, and such costs of the proceedings, or either of them, as the court thinks reasonable, and the damages shall be payable to the person directed by the court; or

Form 13.

(b) the court may, upon convicting the defendant, discharge him conditionally on his giving security, with or without a surety or sureties, to appear for sentence when called upon or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of damages and costs, or either of them, the court thinks reasonable.

Costs and Compensation

45. (1) In every case where the complaint is dismissed, the court may order that the complainant shall pay to the defendant the costs the court deems just and reasonable, and, if the court is of opinion that the complaint was frivolous or vexatious, it may also order the complainant to pay to the defendant a reasonable sum, not exceeding three thousand two hundred and fifty dollars, as compensation for any trouble and expense to which the defendant has been put by reason of that complaint, in addition to his costs.

Order for costs and compensation.
[4 of 1972
6 of 1997]

(2) Wherever an order is made against the defendant, the court may order that the defendant shall pay to the complainant such costs, and shall also, subject to the provisions of any Act in that behalf, pay to the complainant or any other person such compensation, as the court deems just and reasonable:

Provided that this section shall not affect the procedure of the court under any written law making express provision with respect to that compensation.

(3) An order for payment of costs made against a defendant may include any costs of and attendant upon his apprehension.

(4) An order for payment of costs shall not include any fees to counsel.

(5) Any sum so allowed for costs, or for costs and compensation, shall in every case be specified in the order of dismissal or order, as the case may be, and payment thereof may be enforced in the same manner as payment of a penalty.

Form 32.

PART IV

ENFORCEMENT OF ORDER

46. (1) The court by whose order any sum of money is adjudged to be paid may, if it thinks fit, do all or any of the following things:

- (a) allow time for payment of the sum; or
- (b) direct payment of the sum to be made by instalments; or

Powers of the court as to mode of payment of money adjudged to be paid by order.

LAWS OF GUYANA

32

Cap. 10:02

Summary Jurisdiction (Procedure)

(c) direct that the person liable to pay the sum shall be at liberty to give, to the satisfaction of the court, security, either with or without a surety or sureties, for the payment thereof or of any instalment thereof.

(2) Where a sum of money 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 the payment of all the instalments then remaining unpaid.

Allowance of
further time.
[11 of 1937]

47. Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order of a court of summary jurisdiction, further time may, subject to any provisions of this Act, on an application by or on behalf of the offender, be allowed by the court, or such court may, subject as aforesaid, direct payment by instalments of the sum so adjudged to be paid.

Deposit of
money in lieu
of surety.

48. The Court may accept a deposit of money from or on account of any person in lieu of a surety or sureties, and, on any breach of the condition of his recognisance, the deposit shall be forfeited and shall be dealt with in the manner hereinafter mentioned.

Warrant of Distress

Distress
warrant.
[4 of 1972]
Form 12.
Form 15.
Form 20.
Form 21.

49. (1) Any sum of money adjudged to be paid by an order shall, if the written law on which the order is founded so directs, but subject to the provisions hereafter in this section contained, and may, in the discretion of the court in other cases, be levied upon the movable property of the defendant by distress and sale thereof.

(2) In that case the court shall (but subject as aforesaid) or may, as the case may be, issue its warrant of distress for the purpose of levying the sum, and the warrant shall be in writing and shall be signed by the magistrate of the court.

(3) If it appears to the court, when application is made to it to issue the warrant, that the defendant has no movable property whereon to levy the distress, or that in the event of a warrant of distress being issued his movable property will be insufficient to satisfy the sum of money adjudged to be paid by the order, or that the levy of the distress

will be more injurious to him or his family than imprisonment, the court may, if it thinks fit, instead of issuing the warrant of distress, order the defendant, on non-payment of the sum, to be imprisoned for any term not exceeding the term hereinbefore prescribed in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by orders.

(4) The wearing apparel and bedding of a person and his family, and to the value of one hundred dollars the tools and implements of his trade, shall not be taken under a warrant of distress issued by the court.

50. Where a warrant of distress is issued against the defendant, the court may either suffer the defendant to go at large or by a warrant in that behalf order him to be kept and detained in safe custody until return has been made to the warrant, unless the defendant gives sufficient security by recognisance or otherwise to the satisfaction of the court, for his appearance before the court at the time and place appointed for that return.

Commitment
or security
until return
made to
distress
warrant.
Form 29.

51. Where a warrant of distress is issued against the defendant, and a return is made by the police or other constable charged with the execution of the warrant to the effect that no sufficient movable property of the defendant can be found whereon to levy the distress, the court may order the defendant, on non-payment of the sum of money adjudged to be paid by the order and all costs and charges of the distress and of the commitment, to be imprisoned, for any term not exceeding the term herein before prescribed in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by orders.

Imprisonment
in default of
distress.

Form 47.
Form 30.

52. The following provisions shall have effect with respect to the execution of warrants of distress issued by the court, namely—

General
provisions
with respect to
distress
warrants.
[6 of 1997]

(a) a warrant of distress shall be executed by or under the direction of a police or other constable;

(b) if the constable charged with the execution of the warrant is prevented from executing it by the fastening of doors or otherwise, the magistrate may, by writing under his hand endorsed on the warrant, authorise him to use the force

necessary to enable him to execute the warrant;

(c) except so far as the person upon whose movable property the distress is levied otherwise consents in writing, the distress shall be sold at public auction, and three days at least shall intervene between the making of the distress and the sale, but where consent in writing is so given as aforesaid the sale may be made in accordance with the consent;

(d) subject as aforesaid, the distress shall be sold within the time fixed by the warrant, and if no time 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 also the charges of taking and keeping the distress are sooner paid;

(e) if any person charged with the execution of any warrant of distress wilfully retains from the produce of any property sold to satisfy the distress, or otherwise exacts, any greater costs or charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall, on conviction thereof, be liable to a penalty exceeding five thousand dollars but not exceeding ten thousand dollars:

[13 of 1998]

Provided that nothing herein contained shall affect his liability to be prosecuted and punished for extortion;

Form 48.

(f) a written account of the costs and charges incurred in respect of the execution of any warrant of distress shall, as soon as practicable, be delivered by the constable charged with the execution of the warrant to the magistrate; and the person upon whose movable property the distress was levied may, at any time within one month after the making of the distress, inspect the account without fee or reward at any time during office hours, and take a copy thereof; and

(g) a constable charged with the execution of any warrant of distress shall sell the distress or cause it to be sold, and may deduct out of the amount realized by the sale all costs and charges actually incurred in effecting the sale, and shall pay to the magistrate, or to some person specified by him, the remainder of that amount, in order that it may be applied in payment of the sum for which the warrant was issued and

of the proper costs and charges of the execution of the warrant, and that any overplus may be rendered to the person upon whose movable property the distress was levied.

53. Where anyone against whom a warrant of distress is issued pays or tenders to the police or other constable having the execution of the warrant the sum or sums therein mentioned or produces to him the receipt for them of the clerk, and also pays the amount of the costs and charges of the distress up to the time of that payment or tender, the constable shall cease to execute the warrant.

Payment of
amount of
distress
warrant.

Commitment of Defendant

54. Wherever an order is made against any person for the payment of a sum of money, and he is liable to be imprisoned for a certain term unless that sum is sooner paid, if he does not pay it either forthwith or at the time specified in the order for its payment, as the case may be, the court may issue a warrant of commitment, under the hand of the magistrate, requiring the police or other constable to whom the warrant is directed to take and convey the person to prison and there deliver him to the keeper, and requiring the keeper to receive him into prison and there to imprison him for the time directed and appointed by the warrant of commitment, unless the sum of money adjudged to be paid by the order, and also all other costs, charges and expenses are sooner paid.

Committal of
defendant in
certain cases.

Form 26.

55. If any person against whom an order is made for the payment of a sum of money and in respect of whom a warrant of commitment is issued under section 54, pays or tenders to the police or other constable charged with the execution of the warrant the sum of money adjudged to be paid by the order, together with all other costs, charges and expenses, or produces to the police or other constable a receipt of the clerk for them, the police or other constable shall cease to execute the warrant, and the amounts aforesaid shall be paid to the clerk.

Payment of
amount due on
warrant of
commitment.
[29 of 1961]

56. (1) A warrant committing a person to prison in respect of non-payment of a sum adjudged to be paid by an order of the court shall not be issued forthwith unless the court which passed the sentence or made the order is satisfied that he is possessed of sufficient means to enable

Obligation to
allow time for
payment of
penalties
[11 of 1937]

him to pay the sum forthwith, or unless upon being asked by the court whether he desires that time should be allowed for payment, he does not express any such desire, or fails to satisfy the court that he has a fixed abode within its jurisdiction, or unless the court for any other special reason expressly directs that no time shall be allowed.

In this subsection the expression “special reason” may include the gravity of the offence, the character of the defendant or any other special circumstance.

(2) Where any such person desires to be allowed time for payment, the court in deciding what time shall be allowed shall consider any representation made by him, but the time allowed shall not be less than seven clear days:

Provided that, if before the expiration of the time allowed the person convicted surrenders himself to a court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, and states that he prefers immediate committal to awaiting the expiration of the time allowed, that court may if it thinks fit forthwith issue a warrant committing him to prison.

(3) Where a person so allowed time for payment as aforesaid appears to the court to be not less than sixteen nor more than twenty-one years of age, the court may, if it thinks fit and subject to any provisions of this Act, order that he be placed under the supervision of such person as may be appointed by the court until the sum adjudged to be paid is paid, and in such case before issuing a warrant committing the offender to prison in respect of non-payment of the sum a court shall consider any report as to the conduct and means of the offender, which may be made by the person under whose supervision the offender has been placed.

(4) In all cases where time is not allowed for payment the reasons of the court for the immediate committal shall be stated in the warrant of commitment.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

37

(5) Nothing in this section shall apply to orders made by a court under sections 34 to 55 of the Summary Jurisdiction (Magistrates) Act or the Maintenance Act.

c.3:05

c.45:03

57. Where application is made to the court to issue a warrant for committing a person to prison for non-payment of any sum of money adjudged to be paid by an order, the court may, if it deems it expedient to do so, postpone the issue of the warrant until the time and on the conditions (if any) the court deems just.

Postponing
issue of
warrant of
commitment.

58. Where any person is brought by a police or other constable to any prison to be imprisoned by virtue of a warrant of commitment, the constable shall endorse on the warrant the day on which the person was arrested by virtue thereof and the imprisonment shall be computed from that day and inclusive thereof.

Commence-
ment of
imprisonment.

59. Where any person has been committed to prison by the court for default in finding a surety or sureties, the court may, on application made to it by that person or by someone acting on his behalf, inquire into the person's case and if, upon new evidence produced to the court or proof of a change of circumstances, the court thinks, having regard to all the circumstances of the case, that it is just to do so, the court may reduce the amount for which it was ordered that the surety or sureties should be bound, or dispense with the surety or sureties, or otherwise deal with the matter as the court thinks just.

Varying or
discharging of
order for
sureties.

60.(1) Where a term of imprisonment is imposed by a court in respect of the non-payment of any sum of money adjudged to be paid by an order of a court, that term shall, on payment of a part of such sum to the clerk, be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum paid bears to the sum adjudged to be paid:

Proportionate
reduction of
term of
imprisonment
on part
payment of
sum adjudged
to be paid.
[11 of 1937]

Provided that in reckoning the number of days by which any term of imprisonment would be reduced under this section the first day of imprisonment shall not be taken into account, and that in reckoning the sum which will secure the reduction of a term of imprisonment fractions of a cent shall be omitted.

LAWS OF GUYANA

38

Cap. 10:02

Summary Jurisdiction (Procedure)

Right of
person
imprisoned in
default to be
released on
payment of
sum adjudged
to be paid.

(2) Where any person has been committed to prison by the court for non-payment of any sum of money adjudged to be paid by an order, he may pay or cause to be paid to the keeper of the prison the sum mentioned in the warrant of commitment, together with the amount of the costs, charges, and expenses (if any) also mentioned therein, and the keeper shall receive those moneys and thereupon discharge him, unless he is in custody for some other matter.

(3) Where any person has been committed to prison by the court for non-payment of any sum of money adjudged to be paid by an order, then on payment to the keeper of the prison of any sum in part satisfaction of the sum so adjudged to be paid, the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the prisoner is sentenced as the sum so paid bears to the sum for which he is so liable.

(4) Wherever under the preceding subsection a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court, that sum shall be applied, firstly, towards the payment in full or in part of any costs or damages or compensation ordered by the conviction of the court to be paid to the prosecutor, and, secondly, towards the payment of the fine, if any, imposed on the prisoner.

(5) The keeper of any prison who receives any sum under this section in payment in full or in part of any costs or damages or compensation ordered by the conviction of the court to be paid to the prosecutor shall forthwith transmit the sum to the clerk of the court in which the conviction took place, who shall pay it to the person entitled thereto.

Determination
of liability of
defendant on
satisfaction of,
or discharge
from, order.

61. Where the defendant, having been convicted of the offence with which he was charged, has paid the sum of money adjudged to be paid by the order, or has been discharged therefrom by the State, or has undergone imprisonment for non-payment thereof, or imprisonment adjudged in the first instance, or both, or has been discharged from his conviction in manner aforesaid, he shall be released from all other criminal proceedings for the same matter:

Provided that nothing in this section shall affect the liability of any person in respect of a continuing or recurring offence.

Summary Order

62. (1) Where a power is by any written law given to the court of requiring any person to do, or to abstain from doing, any act or thing, other than the payment of money, or of requiring any act or thing to be done or left undone, other than the payment of money, and no mode is prescribed of enforcing the requisition, the court may exercise that power by an order, and may annex to the order any conditions as to time or mode of action or otherwise which the court thinks just, and may suspend or rescind the order on any undertaking being given, or any condition being performed, which the court thinks just, and generally may make such arrangements for carrying the power into effect as to the court seems fit.

Summary
order to do
specific act.

Form 16.
Form 28.

(2) Every person who makes default in complying with an order of the court in relation to any matter arising under a written law, other than the payment of money, shall be punished in the manner prescribed by that written law, or, if no punishment is so prescribed, may, in the discretion of the court, be ordered to pay a sum not exceeding three hundred and twenty-five dollars for every day during which he is in default or to be imprisoned, until he has remedied his default:

Form 14.
Form 31.

Provided that a person shall not, for non-compliance with the requisition of the court, whether made by one or more orders, to do or to abstain from doing any act or thing, be liable under this section to the payment of any sums amounting in the aggregate to more than twenty-six thousand dollars or to imprisonment for any periods amounting in the aggregate to more than two months.

(3) In making any order aforesaid, the court may order that, in default of compliance with the order, the defendant shall pay to the complainant the sum the court awards as a fair compensation to him for the default, and may direct that, in default of the payment of that sum, the defendant shall be imprisoned for any term not exceeding the term

hereinbefore prescribed in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by orders.

PART V

SUMMARY TRIAL OF INDICTABLE OFFENCES

Summary trial
of indictable
offences.
[21 of 1932
34 of 1948
4 of 1972
21 of 1978
4 of 1980
2 of 1989
11 of 1997]
Form 42.

63. (1) Where a person who is an adult is charged before the court with any offence specified in the First Schedule, the court, if it thinks it expedient to do so, having regard to any representations made by or on behalf of the prosecutor or the accused in the presence of each other, the nature of the offence, and all the other circumstances of the case (including the adequacy of the punishment which the court has power to inflict) may, subject to this section, deal summarily with the offence, and, if the accused pleads guilty to, or is found guilty of, the offence charged, the court may sentence him to any punishment or punishments to which the High Court could have sentenced him if he were convicted of such offence in the High Court:

[13 of 1998] Provided that the court shall not sentence the accused to a term of imprisonment exceeding three years or to pay a fine exceeding one hundred thousand dollars.

(2) If the court at any time during the hearing of a charge for such an indictable offence as aforesaid against a person who is an adult becomes satisfied after hearing any representations from the prosecutor and the accused that it is expedient to deal with the case summarily, the court shall thereupon, for the purpose of proceedings under this section, cause the charge to be reduced into writing (if this has not been already done) and read to the accused, and shall forthwith ask him the following question, "Do you plead guilty or not guilty?"

(3) Subsection (1) or (2), as the case may be, shall have effect in respect of any proceedings for an indictable offence as aforesaid whether or not those proceedings have been instituted and that offence committed before or on or after the date of the coming into operation of this section:

Provided that where an indictable offence which was triable summarily before the date of the coming into operation of this section was committed before that date the punishment which the court may impose on the accused shall not exceed a fine of one hundred and ten thousand dollars and imprisonment for more than two years.

(4) Where an order of committal for trial to the High Court has been made prior to the coming into operation of this section in respect of any indictable offence as aforesaid but no indictment has been filed prior thereto by the Director of Public Prosecutions in the registry of the Supreme Court, the Director of Public Prosecutions or the accused may, prior to the filing in the said registry of any indictment pursuant to such committal, apply by motion to the High Court for an order directing the court by which the order of committal was made to deal with the matter summarily under subsection (1). If the High Court grants the application, it shall remit the matter to the said court with directions to hear it summarily.

(5) Where a matter is remitted under subsection (4) the provisions of section 79 of the Criminal law (Procedure) Act shall apply *mutatis mutandis*. c. 10:01

(6) Where the court commences to deal summarily with any indictable offence as aforesaid and the accused pleads not guilty, the court shall order the prosecution to file with the clerk of the court at least seven days before the time when the hearing is to commence copies of every statement by every witness whom the prosecution intend to call at the hearing of the charge; but the court may adjourn the hearing to such time as it thinks fit to allow further time for such copies to be filed or, if filed before such adjournment, in order that the hearing should not commence earlier than seven days after the filing of such copies.

(7) The accused, whether admitted to bail or not, shall be entitled, at his request, to be furnished by the clerk with one copy of each statement of which copies have been filed in pursuance of subsection (6) and the remaining copy thereof shall be retained by the clerk for the use of the court.

(8) Subject to subsection (9), no witness shall be called by the prosecution to give evidence during the hearing of any charge before the court for an indictable offence as aforesaid unless copies of every statement previously made by him to or for the prosecution in the course of any investigation of the offence charged have been filed with the clerk of the court under subsection (6).

(9) Nothing in this section shall be construed as requiring the prosecution to call any witness copies of whose statements have been filed, or as precluding the prosecution from calling any witness copies of whose statements have not been filed, under subsection (6):

Provided that no witness, copies of whose statements have not been so filed, shall be called unless copies of his statements are first filed with the clerk of the court and given to the accused before the witness is so called.

(10) Where a copy of any statement has been given to an accused under the proviso to subsection (9) the court may adjourn the hearing to such time as it thinks fit.

(11) Subsections (6) to (10) (inclusive) shall not apply to any proceedings—

(a) where the offence was one which was triable summarily before the date of the coming into operation of this section and was committed before that date; or

(b) where an order of committal for trial to the High Court was made in respect of the offence prior to that date.

(12) Notwithstanding anything to the contrary in section 37, where the court sentences a person convicted summarily of an indictable offence to pay a fine, it shall, by its sentence, direct that if the person fails to pay the fine at the time appointed for the payment thereof he shall be imprisoned for such period, not exceeding six years or one half of the maximum term of imprisonment to which he might be sentenced by the court for that offence, whichever is the lesser, as the court thinks fit, unless the fine is sooner paid. Any imprisonment to which a person is sentenced and becomes subject under this section,

shall, if the relevant fine is imposed in addition to a term of imprisonment for the offence, commence at the expiration of such term of imprisonment:

Provided that in the event of non-payment of a fine imposed in respect of any indictable offence which was triable summarily and was committed before the coming into operation of this section the law applicable thereto shall be that which would have applied had the foregoing provisions of this subsection not been enacted.

64. Any offence under, or which may be dealt with as if it were an offence under, the Debtors Act, the Insolvency Act, or the Criminal Law (Offences) Act, alleged to have been committed by a person who has been adjudged insolvent, or in respect of whose estate a receiving order has been made, may be prosecuted summarily, and, if so prosecuted, references to the jury in the enactments creating those offences shall be construed as references to a court of summary jurisdiction:

Summary trial
for offences by
debtors.
c. 6:04
c. 12:21
c. 8:01

Provided that—

(a) the maximum term of imprisonment which may be awarded by a court of summary jurisdiction for the offence shall be twelve months; and

[13 of 1998]

(b) summary proceedings in respect of the offence shall not be instituted after the expiration of three years from the commission of the offence, or of one year from the first discovery thereof either by the Official Receiver or by the assignee in insolvency.

65.(1) Where a person is charged before the court with an indictable offence with which the court has or may have in the circumstances mentioned in this Act, power to deal summarily, the court, without prejudice to any other power which it possesses, may, for the purpose of ascertaining whether it is expedient to deal with the case summarily, either before or during the hearing of the cause, adjourn the cause and remand the person charged.

Remand of
person
charged.

(2) A person may be remanded under this section in like manner in all respects as a person accused of an indictable offence may be remanded.

General provisions as to dealing summarily with indictable offences.
[21 of 1978]

66. Where an indictable offence is, in the circumstances mentioned in this Act, authorised to be dealt with summarily—

(a) the procedure shall, until the court assumes the power to deal with the offence summarily, be the same in all respects as if the offence were to be dealt with throughout as an indictable offence, but when and so soon as the court assumes the power to deal with the offence summarily, the procedure shall be the same, from and after that period, as if the offence were a summary conviction offence and not an indictable offence, and this Act shall apply accordingly:

Provided that nothing herein contained shall be construed to prevent the court from dealing thereafter with the offence as an indictable offence, if it thinks fit to do so;

(b) the evidence of any witness taken before the court assumed the power to deal with the offence summarily need not be taken again, but the witness shall, if the defendant so requires, be recalled for the purpose of cross-examination;

(c) the conviction for the offence shall be of the same effect as a conviction on a trial on indictment therefor;

(d) where the court has assumed the power to deal with the offence summarily, and dismisses the complaint on the merits, it shall, if required, deliver to the person charged a copy, certified under the hand of the magistrate, of the order of dismissal, and the dismissal shall be of the same effect as an acquittal on a trial on indictment for the offence; and

(e) the provisions of sections 13 and 14 of the Criminal Law (Offences) Act and of section 218 of the Criminal Law (Procedure) Act shall, as they apply to a person convicted before the High Court of an indictable offence, apply *mutatis mutandis* to a person convicted for such an offence dealt with summarily and for that purpose any law imposing a limitation as to the amount that may be awarded by a

Form 43.

c. 8:01
c. 10:01

magistrate in the exercise of his civil jurisdiction or regulating an appeal from such an award shall be construed and have effect as if there were no such limitation:

Provided that where the indictable offence was committed before the date of the coming into operation of this paragraph the amount which the court may award under this paragraph shall not exceed that which could have been awarded at the date of the commission of the offence.

PART VI

MISCELLANEOUS PROVISIONS

Ownership of Property

67. (1) Where, in any document in any proceeding under this Act, it is necessary to state the ownership of any property whatsoever, whether movable or immovable, which belongs to or is in the possession of more than one person, it shall be sufficient to name one of those persons, and to state the property to belong to the person so named and another or others as the case may be.

Statement of ownership of property.

(2) Where, in the document, it is necessary to mention for any purpose whatsoever any partners or other joint owners or possessors, it shall be sufficient to describe them in manner aforesaid.

(3) This section shall be construed to extend to all joint stock companies and associations, societies, and trustees.

68. Where, in any document in any proceeding under this Act, it is necessary to state the ownership of any church, chapel, or building set apart for religious worship, or of anything belonging thereto or being therein, it shall be sufficient to state that the church, chapel, building, or thing, is the property of the clergyman, or of the officiating minister, or of the churchwarden or churchwardens of the church, chapel, or building, without its being necessary to name him or them.

Statement of ownership of church.

69. Where, in any document in any proceeding under this Act, it is necessary to state the ownership of any work or building made, erected, or maintained, either wholly or in part, at the expense of the inhabitants of Guyana or of any city, town, local government district established under the Municipal and District Councils Act, or village of Guyana, or of anything belonging to or being in or used in relation thereto, or of anything provided for the use of the poor or of any public institution or establishment, or of any materials or tools provided or used for repairing the work or building, or any public road or highway, or of any other property whatsoever, whether movable or immovable, of the inhabitants aforesaid, it shall be sufficient to state that the property is the property of the inhabitants of Guyana, or of the city, town, local government district established under the Municipal and District Councils Act, or village, as the case may be, without naming any of them.

Remedies by
criminal
proceedings
for married
woman against
her husband
and others in
respect of
property.

70. (1) Every married woman, whether married before or after the commencement of this Act, shall have in her own name against all persons whatsoever, including her husband (subject as regards her husband to the proviso hereafter in this section contained) the same remedies and redress by way of criminal proceedings for the protection and security of her own separate property as if that property belonged to her as an unmarried woman.

(2) In any complaint or other proceeding under this section, it shall be sufficient to allege the property to which the complaint or other proceeding relates to be the property of the married woman:

Provided that no proceeding shall be taken by any wife against her husband by virtue of this section, while they are living together, as to or concerning any property claimed by her, nor, while they are living apart, as to or concerning any act done by the husband, while they were living together, concerning property claimed by the wife, unless that property has been wrongfully taken by the husband when leaving or deserting, or about to leave or desert, his wife.

71. A wife who does any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings by the wife under the preceding section, shall in like manner be liable to criminal proceedings by her husband.

Criminal liability of wife to husband.

Arrest

72. Anyone who is found committing any offence against the person, or against property, which is punishable on summary conviction may be taken into custody, without warrant, by any police or other constable, or may be apprehended by the owner of the property on or with respect to which the offence is committed, or by his servant or any other person authorised by him, and shall in the latter case be delivered as soon as possible into the custody of some police or other constable, to be dealt with according to law.

Arrest of offender in certain cases.

73. A person taken into custody without warrant for a summary conviction offence shall be brought before a magistrate as soon as practicable after he is so taken into custody, and in the meantime any officer of police or non-commissioned officer of police may inquire into the matter, and, except where the offence appears to that officer or non-commissioned officer to be of a serious nature, shall discharge the prisoner, upon his entering into a recognisance, with or without a surety or sureties, for a reasonable amount to appear before the court at the time and place specified in the recognisance.

Bail where offender taken into custody without warrant.

74. (1) Every warrant for the apprehension of any person issued under this Act, or unless the contrary is expressly provided, under any other written law relating to summary conviction offences, shall be dated on the day on which it is issued, and shall be signed by the magistrate by whom it is issued.

Form and requisites of warrant of apprehension.

(2) The warrant—

- (a) shall not be signed in blank;
- (b) shall not be issued without an information or other

statement in writing and upon oath;

(c) may be directed either to any police or other constable by name, or to that police or other constable and all other police and other constables, or generally to all police and other constables;

(d) may be executed by any police or other constable named therein, or by any one of the police or other constables to whom it is directed;

(e) shall state concisely the offence or matter for which it is issued, shall name or otherwise describe the person to be arrested, and shall order the police or other constable or constables to whom it is directed to apprehend that person, and bring him before the court to answer the said information or statement, or to testify, or otherwise, according to the circumstances of the case, and to be further dealt with according to law.

(3) It shall not be necessary to make the warrant returnable at any particular time, but it shall remain in force until it is executed.

(4) A magistrate who issues the warrant shall endorse thereon whether or not the person to be apprehended shall be admitted to bail and, if he is to be admitted to bail, whether with or without a surety or sureties and the amount of the recognisance into which he is to enter; and when the person has been arrested under the warrant, that recognisance, conditioned for his appearance before the court at the time and place specified therein, may be entered into before any officer or non-commissioned officer of police, who shall thereupon discharge the prisoner.

Execution of
warrant.

75.(1) The warrant of apprehension may be issued and executed on a Sunday.

(2) The police or other constable executing the warrant must, before making the arrest, inform the person to be arrested that there is a warrant for his apprehension, unless there is reasonable cause for abstaining from giving that information on the ground that it is likely to occasion escape, resistance, or rescue.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

49

(3) Subject to the proviso hereafter in this section contained, it shall not be necessary for the police or other constable executing the warrant to have it in his possession; but if he has it, he must, upon request, show it to the person arrested or to be arrested.

(4) Every person arrested on the warrant shall be brought before the court as soon as is practicable after he is so arrested.

(5) Any police or other constable authorised to execute the warrant may, for the purpose of executing it, either with or without assistance from any other person or persons, break open and enter any house, building, or enclosed place, if admittance cannot otherwise be obtained:

Handcuffing
of person
arrested.

Provided that in that case he must be in possession of the warrant, and before so doing he must, as far as practicable, notify his possession thereof.

Police station
to be lock-up.

76. A person arrested, whether with or without warrant, shall not be handcuffed or otherwise bound, except in case of necessity, or of reasonable apprehension of violence, or of attempt to escape, or by order of the court or of a magistrate.

Seizure of
property the
proceeds of
summary
conviction
offence.
[21 of 1978]
c. 10:01

77. Every police station shall be deemed to be a lock-up house where persons charged with summary conviction offences may be received and detained according to law.

Seizure and Restitution of Property

78. The provisions of section 203 of the Criminal Law (Procedure) Act, as they apply in relation to the seizure and attachment of property being the proceeds of an indictable offence, shall apply *mutatis mutandis* in relation to seizure and attachment of property being the proceeds of a summary conviction offence.

LAWS OF GUYANA

50

Cap. 10:02

Summary Jurisdiction (Procedure)

Seizure of things intended to be used in commission of summary conviction offence.

79. The court may order the seizure of any instruments, materials, or things which there is reason to believe are provided or prepared, or being prepared, with a view to the commission of any summary conviction offence, and may direct them to be held and dealt with in the same manner as property seized under the last preceding section.

Enforcement of order of seizure.

80. Any order made under either of the last two preceding sections may be enforced by a search warrant under this Act.

Return of property found on person apprehended.

81. If, upon the apprehension of any person charged with a summary conviction offence, any property is taken from him, a report shall be made by the police to the court of that fact and of the particulars of the property, and the court shall, if it is 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, order the property or any portion thereof to be returned to the person charged or to any other person he directs.

Application of money found on person apprehended.

82. If, upon the apprehension of any person charged with a summary conviction offence, any money is taken from him, the court may, in its discretion, in case of his conviction, order the money, or any part thereof, to be applied to the payment of any costs, or costs and compensation, directed to be paid by him.

Restitution of property in case of conviction.

83. (1) Subject as hereinafter provided, where any person is convicted of a summary conviction offence, any property found in his possession, or in the possession of any other person for him, may be ordered by the court to be delivered to the person who appears to the court to be entitled thereto.

Form 49.

(2) (a) Where any person is convicted before the court of having stolen or dishonestly obtained any property, and it appears to the court that the property has been pawned to a pawnbroker or other person, the court may order the delivery thereof to the person who appears to the court to be the owner, either on payment or without payment to the pawnbroker or other person of the amount of the loan or any part thereof, as to the court, in all the circumstances of the case, seems just.

(b) If the person in whose favour the order is made pays the money to the pawnbroker or other person under the order and obtains the property, he shall not afterwards question the validity of the pawn; but save to that extent no order made under this section shall have any further effect than to change the possession, nor shall it prejudice any right of property or right of action in respect to property existing or acquired in the goods either before or after the offence was committed.

(3) Nothing in this section shall prevent the court from ordering the return to any person charged with a summary conviction offence, or to any person named by the court, of any property found in the possession of the person so charged or in the possession of any other person for him, or of any portion thereof, if the court is of opinion that that property or any portion thereof can be returned consistently with the interests of justice and with the safe custody or otherwise of the person so charged.

Keeping the Peace

84. (1) Whenever a complaint is made by any person against another to the effect that there is reason to fear that the defendant will do the complainant some bodily injury, the court may, if the complaint is established, order the defendant to enter into a recognisance, with or without a surety or sureties, to keep the peace and be of good behaviour towards the complainant.

Articles of the
peace.
Form 17.
Form 36.
[13 of 1998]

(2) This Act shall apply to the hearing of that complaint, and the complainant and the defendant and the witnesses may be called and examined and cross-examined, and the complainant and the defendant shall respectively be liable to the payment of costs, or of costs and compensation, as in the case of any other complaint.

(3) The court may order the defendant, in default of compliance with the order of the court, to be imprisoned for any term not exceeding twelve months.

[13 of 1998]

85. The court shall have power, in any complaint made for a summary conviction offence, whether the complaint is dismissed or the defendant is convicted, to bind both the complainant and the

Binding over
parties to be of
good
behaviour.

LAWS OF GUYANA

52

Cap. 10:02

Summary Jurisdiction (Procedure)

[13 of 1998] defendant, or either of them, to be of good behaviour, and may order the complainant or the defendant, in default of compliance with the order, to be imprisoned for any term not exceeding six months.

Enforcement of
recognisance to
keep the peace
or to be of
good behaviour
[21 of 1932]

86. (1) Where a surety to a recognisance to keep the peace or to be of good behaviour has reason to suspect that the person bound as principal has been or is about to be guilty of conduct which was or would be a breach of the conditions of the recognisance, he may make a complaint before any magistrate having jurisdiction either in the place in which the said person is or is believed by the complainant to be or in the place where the court by which the recognisance was ordered to be entered into was held, and that magistrate may thereupon, if in his discretion he thinks fit, issue a summons against the said person.

(2) The court before which the said person appears in answer to any such summons may, as it thinks fit, either order him to enter into a fresh recognisance, with or without sureties, or deal with him in the same manner as if he were a person who had failed to comply with an order to enter into a recognisance and find sureties to keep the peace or to be of good behaviour, and shall in either case order that the first mentioned recognisance shall be discharged.

Bringing up
person
imprisoned for
want of
sureties.
[21 of 1932]
Sanction of
compromise.

87. Every person imprisoned under either of the last three preceding sections shall be brought before the High Court whenever the prison in which he is confined is delivered.

88. The court may, in any case of breach of the peace, sanction any compromise between the parties to the complaint which it deems just and right.

Commitment of Vagrants and Rogues to Alms-house

Power to make
order for
detention of
vagrants in
alms-house.

Form 44.

89. Where any person is brought before the court charged with having committed an offence against the provisions of any Act relating to vagrants, or to rogues and vagabonds, or to incorrigible rogues, and it appears to the court that the person so charged is unable from physical infirmity to maintain himself, and that he has no visible means of subsistence, the court, instead of proceeding to hear and determine

that charge, may order that the person so charged shall be forthwith conveyed to an alms-house and there detained until he is discharged therefrom as hereinafter provided.

90. Every person ordered to be so detained shall be taken to an alms-house, and there detained until he is discharged by the written order of a magistrate.

Time of detention.

91. Every magistrate is hereby authorised to make an order in writing directing the immediate discharge from an alms-house of any person who has been so ordered to be detained therein, if it appears to the magistrate that he has become capable of earning his livelihood, and he shall be discharged accordingly.

Power to order discharge of person detained.

92. If any person enters into a bond in the sum of one thousand six hundred and twenty-five dollars, before a magistrate, that due provision shall be made for the future maintenance of any person who has been so ordered to be detained in an alms-house, the magistrate, if satisfied that the person so entering into the bond has sufficient property to enable him to maintain the person so ordered to be detained, or to pay the said sum of one thousand six hundred twenty-five dollars if the condition of the bond is not performed, shall make an order in writing that the person so ordered to be detained and mentioned in the bond shall be at once discharged, and he shall be discharged accordingly.

Discharge of person detained on security being given.

Form 45.

93. If anyone so ordered to be detained in an alms-house becomes so ill that, in the opinion of the medical officer of the alms-house, he cannot be properly treated therein, the officers of the alms-house, with the sanction of the Chief Medical Officer, may cause the person to be conveyed to the nearest public hospital for medical treatment therein; and the person on his discharge from the hospital shall be taken back to an alms-house and there detained as hereinbefore mentioned.

Transfer to hospital of person detained in case of illness.

94. Everyone, so ordered to be detained in an alms-house, who leaves it, or any public hospital to which he has been removed before he has been discharged as hereinbefore mentioned, may be arrested, without warrant, by any police or other constable and conveyed back to an alms-house, and there detained as hereinbefore mentioned.

Arrest of person detained in case of escape.

Saving of Validity of Process

Provisions as to certain proceedings in the court.

95. The following provisions with respect to certain proceedings in the court shall have effect:

(a) a warrant of commitment shall not be held void by reason only of any defect therein, if it is therein alleged that the offender has been ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is a good and valid order to sustain the allegation;

(b) a warrant of distress shall not be held void by reason only of any defect therein, if it is therein alleged that an order has been made, and there is a good and valid order to sustain the allegation; and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution thereof; but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in, or irregularity in the execution of, a warrant of distress, so, however, that, if amends are tendered before action brought, and, if the action is brought, are paid into court in the action, and 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 the tender, and the defendant shall be entitled to costs, to be taxed as between solicitor and client; and

(c) a summons or warrant or other process shall not be held void by reason of the magistrate who signed it dying or ceasing to hold office.

No objection to jurisdiction unless taken at hearing.

96. It shall not be competent for any person to impeach, in any proceeding or in any other manner whatever, any order made by the court on the hearing of a complaint on the ground that the court had no jurisdiction to make the order, unless that objection was taken on the hearing of the complaint or at the time of the making of the order.

Effect of variation or defect in proceedings.

97. (1) In any cause in the court, no variance between the complaint, or summons, or warrant and the evidence adduced in support thereof as to the time at which the cause of complaint is alleged

to have arisen shall be deemed material, if it is proved that the complaint was in fact made within the time limited by law for making it; and no variance between the complaint, or summons, or warrant and the evidence adduced in support thereof as to the place in which the cause of complaint is alleged to have arisen shall be deemed material.

(2) No objection shall be taken or allowed, in any proceeding in the court, to any complaint, summons, warrant, or other process for any alleged defect therein in substance or in form, or for any variance between any complaint or summons and the evidence adduced in support thereof:

Provided that if any variance or defect mentioned in this section appears to the court at the hearing to be such that the defendant has been thereby deceived or misled, the court may make any necessary amendments, and, if it is expedient to do so, adjourn, upon such terms as it thinks fit, the further hearing of the cause.

Proof of Process

98. (1) Where it becomes necessary to prove the service of any summons, notice, order or other process whatsoever issued under this Act which has been served by a bailiff or constable a return of service in Form 52 in the Schedule, purporting to be signed by the bailiff or constable, shall be received in all courts as *prima facie* evidence of the facts stated in the return without proof of the signature or official character of the bailiff or constable.

Proof of service of process by bailiff or constable. [51 of 1932] Form 52.

(2) In every proceeding in the court in which it is necessary to prove the service of any summons, notice, order, or other process whatsoever of the court upon any person, it shall be deemed to be sufficient proof of the service if the person by whom the process has been served is duly sworn to an affidavit of the service. The affidavit may be sworn by and before any magistrate, justice of the peace, or, if authorised for that purpose by the Chancellor, the clerk.

Proof of service of process. Second Schedule. Form 53.

(3) The affidavit shall be received in evidence in any proceeding in any court without proof of the signature or of the official character of the person making it, or of the person before whom it is made; and the

LAWS OF GUYANA

56

Cap. 10:02

Summary Jurisdiction (Procedure)

onus of showing that any service referred to in the affidavit was not made in accordance with the tenor of the affidavit shall be on the party objecting.

(4) Affidavits of service shall be numbered by the clerk consecutively in the order in which they are received and filed as of record in the court in which they are entitled; and, in every case in which any such affidavit is used, it shall be sufficient to note on the proceedings its number and the court in which it is filed.

Proof of
previous
conviction.
[21 of 1932]

99. Where on the hearing of any complaint, it is proposed to prove against the defendant the fact of a previous conviction—

(a) a copy of the order of any magistrate's court in respect of the former offence purporting to be certified by the clerk of that court, or

(b) production of a copy of a warrant of commitment reciting the conviction purporting to be certified under the hand of the keeper of the prison, or production of a register kept under section 5 of the Prevention of Crimes Act, containing an entry of the conviction,

c. 9:01

shall, upon proof of identity of the person, be sufficient evidence of the conviction.

Enforcement of Recognisance

Mode of
enforcement.

100. (1) Where a recognisance is conditioned for the appearance of any person before the court or for his doing some other act or thing to be done in, to, or before the court or in a proceeding in the court, the court may, if the recognisance appears to be forfeited, declare it to be forfeited, and order the sum due thereunder to be levied upon the movable property of the person liable thereunder, in the same manner as if the sum were a penalty adjudged by the court to be paid, and were ascertained by an order:

Form 35.
Form 37.
Form 22.

Form 40.

Form 41.

Provided that (a) the court may at any time cancel or mitigate the forfeiture upon the person liable under the recognisance applying and giving security, to the satisfaction of the court, for the future

performance of the condition of the recognisance, and paying, or giving security for the payment of, the costs incurred in respect of the forfeiture, or upon any other conditions the court thinks just; and (b) if it appears to the court that a warrant of distress should not, under the provisions hereinbefore contained, be issued against the person liable under the recognisance, but that he has immovable property, the court may, if it thinks fit, postpone the issue of a warrant of commitment against him, and transmit the recognisance to the Director of Public Prosecutions in order that it may be put in suit against him.

(2) Where a recognisance to keep the peace and to be of good behaviour, or not to do or commit some act or thing, has been entered into by any person as principal or as a surety before the court, the court may, on proof of the conviction of the person bound as principal by the recognisance of any offence which is by law a breach of the condition thereof, by order adjudge the recognisance to be forfeited and adjudge the persons bound thereby, whether as principal or as sureties, or any of them, to pay the sums for which they are respectively bound; and the recognisance shall be dealt with in the manner hereinbefore mentioned.

Form 38.
Form 39.
Form 23.

(3) All sums paid or recovered in respect of any recognisance declared or adjudged by the court in pursuance of this section to be forfeited shall be paid to the clerk and shall be paid over and accounted for in the same manner as penalties imposed by the court.

Appropriation of Penalties and Seizures

101. Subject to any power or authority vested in the President to remit any fines, penalties, or forfeitures or to restore any seizures, the amount of every fine and penalty which shall be recovered in a court of summary jurisdiction and the proceeds of every forfeiture and seizure made or incurred subject to the process of the court shall be paid to the Accountant General.

Appropriation
of penalties
and seizures.
[9 of 1933]

102. Subject to the express provisions of any written law relating thereto, every forfeiture not pecuniary which is incurred in respect of a summary conviction offence, or which may be enforced by the

Dealing with
forfeiture not
pecuniary.

court, may be sold or disposed of in the manner directed by the court, and the proceeds of sale shall be applied in the like manner as if the proceeds were a penalty imposed under the law on which the proceeding for the forfeiture is founded.

Remission by
President of
penalties.
[4 of 1972]

103. (1) The President may remit, in whole or in part, any sum of money imposed as a penalty and as costs, charges, and expenses in connection with the penalty, on any person convicted of a summary conviction offence, although the money may be, in whole or in part, due and payable, or has already been paid, to the State for the public use or to some party other than the State, and may exercise his power of pardon in favour of any person who may be imprisoned for non-payment of any sum of money so imposed, although the money may be, in whole or in part, payable to the State for the public use, or to some party other than the State.

(2) The President may order the restoration of anything forfeited, seized or detained in connection with a summary conviction offence.

(3) Every remission or restoration aforesaid may be made in the manner and subject to the terms and conditions the President sees fit to direct.

Effect of
acquiescence
in remission.

104. Every person who accepts or acquiesces in any remission or restoration aforesaid shall be thereby debarred from having, maintaining, or continuing, any action or suit in respect of any matter to which the remission or restoration relates, and no further proceedings shall be taken against him in relation to that matter.

Payment of
sum adjudged
to be paid by
person
imprisoned in
default of
payment.

105. Where any person, who is committed to prison on any order for non-payment of any sum of money adjudged to be paid by the order, desires to pay the money and costs before the expiration of the time for which he has been so ordered to be imprisoned by the warrant for his commitment, he shall do so to the keeper of the prison in which he is so imprisoned, and the keeper shall forthwith transmit a receipt for the moneys to the magistrate of the court which has issued the warrant of commitment.

106. Every magistrate and every keeper of a prison shall keep a true and exact account of all moneys received by him under this Act, and shall, within the first seven days of every month, transmit a fair copy of that account for the preceding month to the Accountant General.

Keeping
account of
moneys
received.
Form 55.

107. Where a magistrate has made an order directing or allowing any recognisance to be taken, and it is not practicable or convenient for him to attend at the time and place where the recognisance is to be taken, any other magistrate may attend and take the recognisance, which shall thereafter have effect and be dealt with in the same manner as if it had been taken by the first-mentioned magistrate.

Taking of
recognisance.

Records

108. (1) The clerk shall keep a record book for his court, in which shall be entered, in the proper columns respectively, the number of the cause, the date of making the complaint, the name of the complainant, the name of the defendant and his age, if he is under fourteen years of age, the substance of the complaint, the written law under which the cause is tried, the date of adjudication, a minute of the adjudication, the name of the magistrate adjudicating, and the costs.

Record book
of proceed-
ings.

Form 54.

(2) If the court refuses to entertain or dismisses a complaint, the clerk shall enter the refusal or dismissal, with the grounds thereof, in the record book.

109. (1) The clerk shall keep a register of the minutes or memoranda of all the orders of the court and of any other proceedings directed by the Chancellor to be registered, and with the particulars and in the form from time to time directed by the Chancellor.

Register of
minutes of
orders.

(2) The register, and also any extract therefrom certified by the clerk to be a true extract, shall, in any proceeding whatever in any court, be *prima facie* evidence of the truth of all matters stated therein.

110. Every record book and register aforesaid shall remain in the district and in the custody of the clerk.

Custody of
records.

Forms

Use of forms
in Second
Schedule.
c. 3:05

111. Subject to any rules which may be made under the Summary Jurisdiction (Magistrates) Act, the forms in the Second Schedule may, with any variations and additions which the circumstances of the particular case require, be used in the matters to which they respectively apply, and, when so used, shall be good and sufficient in law:

Provided that nothing in this section shall affect the use and validity of any special forms of process in respect of summary conviction offences given by any written law relating to those offences.

Form of
complaint,
summons,
warrant
or other
document.
[21 of 1932]

112. The provisions of this Act relating to the form of any complaint, summons, warrant or other document shall be subject to the following rules:

(1) Every information, complaint, summons, warrant or other document in connection with any proceedings for an offence shall be sufficient if it contains a statement of the specific offence with which the accused person is charged together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(2) The statement of the offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by written law, shall contain a reference to the section of the written law creating the offence.

(3) After the statement of the offence, necessary particulars of the offence shall be set out in ordinary language, in which the use of technical terms shall not be required.

(4) Any information, complaint, summons, warrant or other document to which this section applies which is in such form as would have been sufficient in law if this Act had not been enacted shall notwithstanding anything in this section continue to be sufficient in law.

FIRST SCHEDULE

[21 of 1978]

INDICTABLE OFFENCES BY ADULTS WHICH MAY BE
TRIED SUMMARILY

1. The offences specified for the purposes of section 63 are all indictable offences against any law with the exception of indictable offences against the following provisions of the Criminal Law (Offences) Act, namely:—

Sections 51, 52, 66, 67, 69, 70, 71, 76, 77, 80, 82, 84, 90, 94, 95, 98, 99, 100, 101, 102, 103, 104, 105, 131, 134, 138, 149, 150, 151, 152, 153, 154, 155, 210, 211, 314, 316, 317, 319, and 321

2. Attempting to commit, or aiding, abetting, counselling or procuring the commission of any offence triable summarily under paragraph 1 or receiving, relieving, comforting or assisting anyone who has committed any such offence, being a felony.

SECOND SCHEDULE

s. 111

FORMS FOR USE IN PROCEEDINGS RELATING TO
SUMMARY CONVICTION OFFENCES

[14 of 1959]

TABLE OF FORMS

PART I.—INSTITUTION OF PROCEEDINGS:

1. Complaint without oath.
2. Information upon oath.

PART II.—ENFORCING APPEARANCE OF DEFENDANT:

3. Summons to defendant upon complaint or information.
4. Notice to defendant by member of the Police Force.

5A. Warrant of apprehension where defendant has disobeyed summons.

5B. Warrant for apprehension of defendant in the first instance.

PART III.—WITNESSES:

6. Summons to witness.

7. Warrant of apprehension where witness has disobeyed summons.

8. Warrant for apprehension of witness in the first instance.

9. Warrant of commitment of witness for refusing to be sworn or to give evidence.

PART IV.—CONVICTIONS AND ORDERS:

10. Conviction for penalty, and, in default of payment, imprisonment.

11. Conviction where the punishment is by imprisonment.

12. Conviction for penalty to be levied by distress, and, in default of distress, imprisonment.

13. Conviction where defendant is discharged conditionally on giving security to appear or to be of good behaviour.

14. Order for payment of money, and, in default of payment, imprisonment.

15. Order for payment of money to be levied by distress, and, in default of distress, imprisonment.

16. Order for any other matter, where the disobeying of it is punishable by imprisonment.

17. Order to enter into recognisance to keep the peace and be of good behaviour.

18. Order of dismissal of complaint or information.

19. Order dismissing complaint or information, and directing defendant to pay damages.

PART V.—WARRANTS OF DISTRESS:

20. Warrant of distress on conviction for penalty.

21. Warrant of distress on order for payment of money.

22. Warrant of distress for sum due under recognisance declared to be forfeited.

23. Warrant of distress for sum due under recognisance adjudged to be forfeited by conviction of principal.

PART VI.—WARRANTS OF COMMITMENT:

24. Warrant of remand defendant when apprehended.
25. Warrant of commitment of defendant for safe custody during an adjournment.
26. Warrant of commitment on conviction for penalty in the first instance.
27. Warrant of commitment on conviction where the punishment is by imprisonment.
28. Warrant of commitment on order in the first instance.
29. Warrant of commitment pending return to warrant of distress.
30. Warrant of commitment for want of distress.
31. Warrant of commitment on order where the disobeying of it is punishable by imprisonment.
32. Warrant of commitment for non-payment of costs upon order of dismissal of complaint or information.

PART VII.—RECOGNISANCES:

33. Recognisance for appearance of defendant where the case is adjourned or not at once proceeded with.
34. Notification to be made to defendant and his surety on entering into that recognisance.
35. Recognisance for appearance, or for doing some other thing in, to, or before, or in a proceeding in, a magistrate's court.
36. Recognisance to keep the peace and be of good behaviour, or not to do or commit some act or thing.
37. Declaration of forfeiture of recognisance.
38. Summons to person bound by recognisance which is alleged to have been forfeited by conviction of principal.
39. Adjudication of forfeiture of recognisance where person bound as principal has been convicted of an offence which is a breach of the condition.
40. Oral or written acknowledgment of undertaking to perform condition of forfeited recognisance.
41. Order cancelling or mitigating forfeiture of recognisance.

PART VIII.—SUMMARY TRIAL OF INDICATABLE OFFENCES:

- 42. Summary conviction (on plea of guilty) of adult for indictable offence.
- 43. Order of dismissal of adult dealt with summarily for indictable offence.

PART IX.—MISCELLANEOUS FORMS:

- 44. Order for conveyance of vagrant to alms-house and detention therein.
- 45. Recognisance for maintenance of vagrant ordered to be detained in alms-house.
- 46. Certificate of dismissal of complaint or information.
- 47. Constable's return to warrant of distress.
- 48. Constable's account of costs and charges incurred in execution of warrant of distress.
- 49. Order for restitution of property.
- 50. Search warrant.
- 51. Warrant on transfer of cause.
- 52. Return of service by a bailiff or constable.
- 53. Affidavit for use in proving service of process.
- 54. Record book of magistrate's court.
- 55. Return by magistrate of fines, penalties, etc., received.

Note.—The words in the margin of a form, directed to be used in, addition to, or substitution for, those in the text, or words to the like effect, are to be used according to the circumstances of each case.

PART I

INSTITUTION OF PROCEEDINGS
FORMS

s. 4

1.

Complaint without oath

IN THE MAGISTRATE'S COURT.

A.B., Complainant,

v.

C.D., Defendant.

A.B., of comes before me, the undersigned magistrate for the district, and complains against C.D., of for that the said C.D. (1) and the said A.B. prays that the said C.D. may be summoned to answer the said complaint.

(Signed).....

Complainant.

Exhibited before me this.....)

day of 19.....)

at)

(Signed).....

.....Magistrate,District.

(1) *State concisely the substance of the complaint.*

s. 4

2.

Information upon oath

IN THE MAGISTRATE'S COURT.

A.B., Informant,

v.

C.D., Defendant.

The information of A.B., of who saith on his oath (1) that C.D., of (2)

(3)

(1) *or, affirmation.*

(2) *State concisely the substance of the information.*

(3) *Add, for the arrest of a witness— And he further saith that E.F.*

LAWS OF GUYANA

66

Cap. 10:02

Summary Jurisdiction (Procedure)

of
can give
material
evidence, but
is not likely to
attend
voluntarily; or,
and wilfully
avoids service
of the
summons.
(4) or, if a
warrant is
desired in the
first instance
—may be
apprehended
for the said
offence, and
dealt with
according to
law.
(5) or for
sureties for the
peace— And
he lays this
information
for the safety
of his person
and property,
and not from
malice or
revenge
against the
said C.D. Add,
for the arrest
of a witness—
And he further
prays that the
said E.F. may
be appre-
hended and
brought before
the court to
give evidence.

And the said A.B. prays that the said C.D. may be summoned to
answer the said information (4).....(5).....

(Signed).....

Informant

Taken before me this.....)

day of19.....)

at)

.....Magistrate,District.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

67

PART II

ENFORCING APPEARANCE OF DEFENDANT

s. 12

3.

Summons to defendant upon complaint or information

IN THEMAGISTRATE'S COURT

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To C.D., of

Whereas complaint has this day been made [*or* information has this day been laid] before me, the undersigned magistrate for thedistrict, for that you (1).....This is to command you to be and appear at.....o'clock,m, on.....day theday of19....., atbefore the magistrate in the said court, to answer the said complaint [*or* information], and to be further dealt with according to law.

(1) State concisely the substance of the complaint or information.

Dated thisday of19.....

.....Magistrate,District.

s. 8

FORM 4

Case No.....19.....

No.....

**NOTICE TO DEFENDANT BY MEMBER OF THE
POLICE FORCE**

IN THEMAGISTRATE'S COURT

To.....

of

WHEREAS a complaint will be made by me to the Magistrate of theMagisterial District that youonday, theday of19....., in theMagisterial District*

* State concisely the substance of the complaint.

LAWS OF GUYANA

68

Cap. 10:02

Summary Jurisdiction (Procedure)

This is to require you to be and appear at 9.00 o'clock a.m. on the date shown below, at the undermentioned Magistrate's Court to answer the complaint and to be further dealt with according to law.

.....
Dated.....

Date of appearance:

.....day of19.....

atMagistrate's Court.

**READ THE BACK OF THIS NOTICE CAREFULLY
AND BRING THIS NOTICE WITH YOU**

READ CAREFULLY

If you admit committing the offence for which you are hereby given notice and wish to plead GUILTY you may cause this notice to be submitted within seven days of the date thereof, and pay the prescribed penalty, to the clerk of the abovementioned Magistrate's Court. In that event the prosecution of the case against you will be discontinued.

APPEARANCE, PLEA OF GUILTY

I, the undersigned do hereby enter my appearance in respect of the offence stated on the face of this notice. I PLEAD GUILTY to the said offence, WAIVE my right to a HEARING by the court and AGREE to pay the penalty prescribed by law.

.....
(Defendant's Signature.)

.....
(Address)

GENERAL RECEIPT NO.....DATED.....

5A.

s. 14

Warrant of apprehension where defendant has disobeyed summons.

IN THEMAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

69

ToPolice [*or other*] Constable.

Whereas on the.....day of19....., complaint was made [*or* information was laid] before me, the undersigned magistrate for thedistrict, for that C.D. (1).....

And whereas I then issued my summons to the said C.D. commanding him to be and appear [*etc., as in the summons*]; And whereas the said C.D. has neglected to be or appear at the time and place so appointed in and by the said summons, although it has been proved to me, upon oath, that the said summons has been duly served upon the said C.D.:— This is to command you forthwith to apprehend the said C.D., and to bring him before the magistrate in the said court, to answer the said complaint [*or* information], and to be further dealt with according to law.

(1) State
concisely the
substance of
the complaint
[*or* informa-
tion.]

Dated thisday of19.....

Signed

.....Magistrate,District.

s. 15

5B

Warrant for apprehension of defendant in the first instance.

IN THEMAGISTRATE'S COURT.

A.B., Informant.

v.

C.D., Defendant.

ToPolice [*or other*] Constable.

Whereas information has this day been laid before me, the undersigned magistrate for thedistrict, for that C.D. (1)..... and oath having been made before me substantiating the matter of that information:— This is to command you forthwith to apprehend the said C.D., and to bring him before the magistrate in the said court, to answer the said information, and to be further dealt with according to law.

(1) State
concisely the
substance of
the informa-
tion.

Dated thisday of19.....

(Signed).....

.....Magistrate,District.

PART III

WITNESSES

s. 16

6.

Summons to Witness.

IN THEMAGISTRATE 'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To E.F., of

Whereas complaint has been made [or information has been laid] before me, the undersigned magistrate for thedistrict, for that C.D., (1)and it has been made to appear to me that you are likely to give material evidence on behalf of the complainant (2) in this behalf:—This is to require you to be and appear at..... o'clock,.....m..... on.....day, theday of19, atbefore the magistrate in the said court, to testify what you know concerning the matter of the said complaint [or information].

Dated thisday of 19.....

(Signed).....

.....Magistrate,.....District.

(1) *State concisely the substance of the complaint [or information].*
(2) *or defendant.*

s.18

7.

Warrant of apprehension where witness has disobeyed summons.

IN THEMAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To.....police [or other] Constable.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

71

Whereas complaint has been made [or information has been laid] before me, the undersigned magistrate for thedistrict, for that *C.D.* (1)..... and it having been made to appear to me that *E.F.*, ofwas likely to give material evidence on behalf of the complainant (2), I duly issued my summons to the said *E.F.*, requiring him to be and appear [*etc., as in the summons*]; And whereas the said *E.F.* has neglected to be and appear at the time and place so appointed in and by the said summons, and no just excuse has been offered for that neglect; And whereas proof has been made before me, upon oath, that the said summons has been duly served upon the said *E.F.* (3), that the said *E.F.* is likely to give material evidence as aforesaid, and that a reasonable sum has been paid or tendered (4) to him for his expenses in this behalf:— This is to command you forthwith to apprehend the said *E.F.*, and to bring him ato'clock,.....m., on.....day, the.....day of19....., at.....before the magistrate in the said court, to testify what he knows concerning the matter of the said complaint [*or information*], and to be further dealt with according to law.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

8.

s.19

Warrant for apprehension of witness in the first instance.

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [*or Informant*]

v.

C.D., Defendant.

To.....Police [*or other*] Constable.

Whereas complaint has been made [or information has been laid] before me, the undersigned magistrate for the.....district, for that *C.D.* (1)and it being made to appear to me, upon oath, that *E.F.*, ofis likely to give material evidence on behalf of the complainant (2), and it is probable that the said *E.F.* will not attend to give evidence without being compelled

(1) State concisely the substance of the complaint [or information].
(2) or defendant.
(3) or that the said *E.F.* wilfully avoids the said service of summons.
(4) or is ready to be paid or tendered.

(1) State concisely the substance of the complaint [or information].

LAWS OF GUYANA

72

Cap. 10:02

Summary Jurisdiction (Procedure)

(2) or,
informant or
defendant.

so to do:—This is to command you forthwith to apprehend the said *E.F.*, and to bring him at o'clock,..... m., on day, theday of.....19....., atbefore the magistrate in the said court, to testify what he knows concerning the matter of the said complaint [or information], and to be further dealt with according to law.

Dated this.....day of19.....

(Signed).....

.....Magistrate,.....District.

s. 22

9.

*Warrant of commitment of witness for refusing to be
sworn or to give evidence.*

IN THEMAGISTRATE 'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To..... Police [*or other*] Constable, and to the Keeper
of.....Prison.

(1) State
concisely the
substance of
the complaint
[or informa-
tion].
(2) Or
affirmation.

Whereas complaint has been made [or information has been laid] before me, the undersigned magistrate for the.....district, for that *C.D.* (1).....and one *E.F.* now appearing before me in the said court on the.....day of.....19....., at.....and, being required by me to make oath (2) as a witness in that behalf, has refused so to do [or being duly sworn as a witness in the matter of the said complaint [or information] has refused to answer a certain question concerning the said matter, which was put to him], without offering any just excuse for his refusal:—This is to command you, the said constable, forthwith to convey the said *E.F.* to the.....prison, and there deliver him to the keeper of the said prison, together with this warrant; And I hereby command you, the said keeper, to receive the said *E.F.* into your custody in the said prison, and there imprison him, for that his contempt, for the term of.....days, unless he shall in the meantime consent to do what was so required of him; And for your so doing, this shall be your sufficient warrant.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

73

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

PART IV

CONVICTIONS AND ORDERS

10.

s. 38

Conviction for penalty and, in default of payment, imprisonment

IN THEMAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

The.....day of.....19.....

C.D. (hereinafter called the defendant) is this day convicted before the said court for that he (1).....And it is adjudged that the defendant do, for his said offence, forfeit and pay the sum of (2).....to be paid and applied according to law; and do also pay to the said A.B. the sum of.....for his costs in this behalf; And if the said several sums be not paid forthwith (3).....it is adjudged that the defendant be imprisoned in the.....prison for the term ofunless the said several sums shall be sooner paid.

(Signed).....

.....Magistrate,.....District.

11.

s.38

Conviction where the punishment is by imprisonment

IN THE.....MAGISTRATE'S COURT

A.B., Complainant, [or Informant]

v.

C.D., Defendant

(1) *State concisely the substance of the complaint [or information].*

(2) *State the penalty, and also the compensation, if any.*

(3) *Or on or before the day of 19 .*

LAWS OF GUYANA

74

Cap. 10:02

Summary Jurisdiction (Procedure)

(1) State concisely the substance of the complaint [or information].
(2) or, on or before the day of 19 .

Theday of19.....
C.D. (hereinafter called the defendant) is this day convicted before the said court for that he (1)And it is adjudged that defendant be, for his said offence, imprisoned in the.....prison for the term ofand do also pay to the said A.B. the sum of.....for his costs in this behalf; And if the said sum for costs be not paid forthwith (2)then it is adjudged that the defendant be imprisoned in the.....prison for the term of.....to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

(Signed).....
.....Magistrate, District.

s. 49

12.

Conviction for penalty to be levied by distress and, in default of distress, imprisonment

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

1) State concisely the substance of the complaint or information.
(2) State the penalty, and also the compensation.
(3) Or, on or before the day of 19 .

The.....day of19.....
C.D. (hereinafter called the defendant) is this day convicted before the said court for that he (1).....And it is adjudged that the defendant do, for his said offence, forfeit and pay the sum of (2).....to be paid and applied according to law; And do also pay to the said A.B. the sum offor his costs in this behalf; And if the said several sums be not paid forthwith (3).....*it is ordered that the same be levied by distress and sale of the movable property of the defendant; And in default of sufficient distress,* it is

* Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no movable property whereon to levy a distress, then, instead of the words between **, say, "then, inasmuch as it has now been made to appear to the said court that the issuing of a warrant of distress in this behalf would be more injurious to the defendant or his family than imprisonment [or that the defendant has no movable property whereon to levy the said sums by distress] it is adjudged" [etc., as above to the end].

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

75

adjudged that the defendant be imprisoned in the.....prison
for the term of.....unless the said several sums, and all costs and
charges of the said distress [and of the commitment], shall be
sooner paid.

(Signed).....
.....Magistrate,..... District.

13.

s. 44

*Conviction where defendant is discharged conditionally on giving
security to appear or to be of good behaviour*

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

The.....day of.....19.....

C.D. (hereinafter called the defendant) is this day convicted before
the said court for that he (1).....But the court being of
opinion that the said offence was of so trifling a nature that it is
inexpedient to inflict any punishment (2).....and the defendant
having given security, to the satisfaction of the court, to appear for
sentence when called upon (3)he is discharged; And
it is ordered that the defendant do pay to the said A.B. the sum of
.....for damages, and the sum of.....for costs [if so
ordered] forthwith (4).....And if default is made
[*proceed as in conviction for penalty, and, in default of payment,
imprisonment*].

(Signed).....
.....Magistrate,..... District.

(1) State
concisely the
substance of
the complaint
[or informa-
tion].
(2) or, any
other than a
nominal
punishment.
(3) or to be of
good
behaviour.
(4) or on or
before the
day of
19 ,
or by
instalments of,
etc.

LAWS OF GUYANA

76

Cap. 10:02

Summary Jurisdiction (Procedure)

14.

ss. 38 and 62

Order for payment of money, and in default of payment, imprisonment

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant,

v.

C.D., Defendant.

(1) State
concisely the
substance of
the complaint.
(2) or, on or
before the
day of
19 ,
or as the
law may
require.
(3) or, on or
before the
day of
19 .

A.B. having made a complaint that C.D. (hereinafter called the defendant) (1).....And both the said parties having appeared before the said court [or the said A.B. having appeared before the said court, but the defendant, although duly called, not having appeared by himself or his counsel; And it having been satisfactorily proved to the said court, upon oath, that the defendant has been duly served with the summons in this behalf, which required him to be and appear here on this day before the said court to answer the said complaint, and to be further dealt with according to law]; And now the court having heard the matter of the said complaint, it is adjudged that the defendant do pay to the said A.B. the sum offorthwith (2).....And do also pay to the said A.B. the sum of.....for his costs in this behalf; And if the said several sums be not paid forthwith (3).....it is adjudged that the defendant be imprisoned in the.....prison for the term ofunless the said several sums, and all costs and charges of the commitment, shall be sooner paid.

Dated this.....day of..... 19.....

(Signed).....

.....Magistrate,.....District.

s. 49

15.

Order for payment of money to be levied by distress and, in default of distress, imprisonment

IN THE.....MAGISTRATE'S COURT

A.B., Complainant,

v.

C.D., Defendant.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

77

A.B. having made a complaint that C.D. (hereinafter called the defendant) (1).....And both the said parties having appeared before the said court, [or the said A.B. having appeared before the said court, but the defendant, although duly called, not having appeared by himself or his counsel; And it having been satisfactorily proved to the said court, upon oath, that the defendant has been duly served with the summons in this behalf, which required him to be and appear here on this day before the said court to answer the said complaint, and to be further dealt with according to law]; And now the court having heard the matter of the said complaint, it is adjudged that the defendant do pay the said A.B. the sum of.....And do also pay to the said A.B. the sum of.....for his costs in this behalf; And if the said several sums be not paid forthwith (2).....*it is hereby ordered that the same be levied by distress and sale of the movable property of the defendant; And, in default of sufficient distress in that behalf,* it is adjudged that the defendant be imprisoned in the.....prison for the term ofunless the said several sums; and all costs and charges of the said distress [and of the commitment], shall be sooner paid.

(1) State concisely the substance of the complaint.

(2) Or on or before the day of 19 .

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

16.

s.62

Order for any other matter, where the disobeying of it is punishable by imprisonment

IN THE.....MAGISTRATE'S COURT

A.B., Complainant,

v.

C.D., Defendant.

* Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no movable property whereon to levy a distress, then, instead of the words between **, say, "then, inasmuch as it has now been made to appear to the said court that the issuing of a warrant of distress in this behalf would be more injurious to the defendant or his family than imprisonment [or that the defendant has no movable property whereon to levy the said sums by distress] it is adjudged" [etc., as above to the end].

L.R.O. 3/1998

LAWS OF GUYANA

78

Cap. 10:02

Summary Jurisdiction (Procedure)

(1) *State
concisely the
substance of
the complaint.*

A.B. having made a complaint that C.D. (hereinafter called the defendant) (1).....And both the said parties having appeared before the said court [or the said A.B. having appeared before the said court, but the defendant, although duly called, not having appeared by himself or his counsel; And it having been satisfactorily proved to the said court, upon oath, that the defendant has been duly served with the summons in this behalf, which required him to be and appear here on this day before the said court to answer the said complaint, and to be further dealt with according to law]; And now the court having heard the matter of the said complaint, it is adjudged that the defendant do [here state the matter required to be done]; And if, upon a copy of a minute of this order being served upon the defendant, either personally or by leaving the same for him at his last or most usual place of abode, he shall refuse or neglect to obey the same, in that case it is adjudged that the defendant, for that his disobedience, be imprisoned in the.....prison for the term of.....[unless the said order be sooner obeyed, *if the written law authorises this*]; And it is also adjudged that the defendant do pay to the said A.B. the sum offor his costs in this behalf; And if the said sum for costs be not paid forthwith (2).....it is adjudged that the defendant be imprisoned in the said prison for the term ofto commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the commitment, shall be sooner paid.

(2) Or, on or
before the
day of
19 .

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

s. 83

17.

*Order to enter into recognizance to keep the peace and be of good
behaviour*

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant,

v.

C.D., Defendant.

A.B. having made a complaint that C.D. (hereinafter called the defendant) (1).....And both the said parties having appeared before the said court, and the court having heard the matter of the said complaint, it is adjudged that the defendant do forthwith, to the satisfaction ofenter into a recognisance in the sum of.....with.....surety.....in the sum of[each] to keep the peace and be of good behaviour, and especially towards the said A.B., for the term of.....; And if the defendant fails to comply with this order, it is adjudged that he be imprisoned in the.....prison for the term ofunless he sooner complies with this order.

(1) *State concisely the substance of the complaint.*

[If costs are ordered, proceed as follows:] And it is also adjudged that the defendant do pay to the said A.B. the sum of.....for his costs in this behalf; And if the said sum for costs be not paid forthwith (2).....it is adjudged that the defendant be imprisoned in the said prison for the term ofto commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the commitment, shall be sooner paid.

(2) Or, on or before the day of 19 , or by instalments of, etc.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

18.

ss. 33 and 38

Order of dismissal of complaint or information

IN THEMAGISTRATE'S COURT

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

A.B. having made a complaint [or laid an information] that C.D. (hereinafter called the defendant) (1).....And both the said parties having appeared before the said court in order that it should hear and determine the said complaint [or information] [or the defendant having appeared before the said court, but the said A.B., although duly called, not having appeared by himself or his counsel] whereupon the matter of the said complaint [or information] being by the said court duly considered, [it manifestly appears to

(1) *State concisely the substance of the complaint or information.*

LAWS OF GUYANA

80

Cap. 10:02

Summary Jurisdiction (Procedure)

(2) Or, on or
before the
day of
19 ,

the said court that the said complaint [or information] is not proved, and*], the court therefore dismisses the same [and adjudges that the said A.B. do pay to the defendant the sum ofas compensation for his trouble and expense in this behalf, and also the sum of.....for his costs incurred by him in his defence in this behalf; And if the said several sums be not paid forthwith (2)..... it is adjudged that the said A.B. be imprisoned in the..... prison for the term of.....unless the said several sums, and all costs and charges of the commitment, shall be sooner paid].

Dated this.....day of19.....

(Signed).....

.....Magistrate,..... District.

s.44

19.

Order dismissing complaint or information, and directing defendant to pay damages

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

(1) State
concisely the
substance of
the complaint
or informa-
tion.

C.D. (hereinafter called the defendant) has been charged on the complaint [or information] of A.B. for that he (1).....And the matter of the said complaint [or information] being by the said court duly considered, and the said court being of opinion that, though the said complaint [or information] is proved, the offence was of so trifling a nature that it is inexpedient to inflict any punishment, the court therefore dismisses the said complaint [or information].

[If payment of damages or costs is ordered, proceed as follows:]

And it is ordered that the defendant do pay to the said A.B.....for damages, and.....for costs; And if the said several sums be not paid [*proceed as in form 18*].

Dated this.....day of19.....

(Signed).....

.....Magistrate,..... District.

*If the complainant [or information] does not appear, these words may be omitted.

PART V

WARRANTS OF DISTRESS

20.

s. 49

Warrant of distress on conviction for penalty

IN THEMAGISTRATE'S COURT

A.B., Complainant, [*or* Informant]

v.

C.D., Defendant.

To.....Police [*or other*] Constable.

Whereas C.D. (hereinafter called the defendant) was this day (1)convicted before the said court for that he (2).....
And it was thereby adjudged that the defendant should, for that his offence, forfeit and pay [etc., as in the conviction], and should also pay to the said A.B. the sum of.....for his costs in that behalf; And it was thereby ordered that if the said several sums should not be paid [forthwith], they should be levied by distress and sale of the movable property of the defendant; And it was thereby also adjudged that, in default of sufficient distress the defendant should be imprisoned in the.....prison for the term of.....
 unless the said several sums, and all costs and charges of the said distress [and of the commitment] should be sooner paid; And whereas the defendant, being so convicted as aforesaid, and being [*now*] required to pay the said sums of.....and.....has not paid the same or any part thereof, but therein has made default:—
 This is to command you forthwith to make distress of the movable property of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of one hundred dollars, the tools and implements of his trade); And if, within the space of *days next after the making of that distress, the said sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said moveable property by you distrained, and pay the money arising therefrom to [*the magistrate or other person specified*] in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand, to the defendant; And if no such distress can be found, then

(1) *Or*, on the
 day of
 19 .
 (2) *State the
 substance of
 the complaint
 or information
 as in the
 conviction.*

LAWS OF GUYANA

82

Cap. 10:02

Summary Jurisdiction (Procedure)

to certify the same to the said court, in order that further proceedings may be had according to law.

Dated this.....day of19.....

(Signed).....

.....Magistrate,District.

s. 49

21.

Warrant of distress on order for payment of money

IN THE.....MAGISTRATE'S COURT

A.B., Complainant,

v.

C.D., Defendant.

To.....Police [*or other*] Constable.

(1) *State the substance of the complaint, as in the order.*

Whereas on the.....day of.....19....., complaint was made before me, the undersigned magistrate for thedistrict, for that C.D. (hereinafter called the defendant) (I).....and both the said parties having appeared before the said court [or as in the order]; And the said court having considered the matter of the said complaint, it was adjudged that the defendant should pay to the said A.B. the sum of..... and should also pay to the said A.B. the sum of for his costs in that behalf; And it was thereby ordered that if the said several sums should not be paid on or before the.....day of.....19....., they should be levied by distress and sale of the movable property of the defendant; And it was thereby also adjudged that, in default of sufficient distress in that behalf, the defendant should be imprisoned in the.....prison for the term of..... unless the said several sums, and all costs and charges of the distress [and of the commitment] should be sooner paid; And whereas the time by the said order appointed for the payment of the said several sums of.....and.....has elapsed, but the defendant has not paid them or any part thereof, but therein has made default:—

* NOTE.— *The property is not to be sold after the expiration of three days next after the day on which it is seized, unless the defendant otherwise consents in writing.*

This is to command you forthwith to make distress of the movable property of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of one hundred dollars, the tools and implements of his trade); And if, within the space of *.....days after the making of that distress, the said last-mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said movable property by you distrained, and pay the money arising therefrom to [*the magistrate or other person specified*] in order that it may be applied according to law, and that the overplus, if any, may be rendered, on demand, to the defendant; And if no such distress can be found, then to certify the fact to the said court, in order that further proceedings may be had according to law.

Dated thisday of.....19.....

(Signed).....

.....Magistrate,.....District.

22.

s. 100

Warrant of distress for sum due under recognizance declared to be forfeited

IN THE.....MAGISTRATE'S COURT.

To.....Police [*or other*] Constable.

Whereas.....was, by his recognisance entered into theday of19....., bound in the sum of.....the condition of his recognisance being that.....should (1)And whereas default having been made in compliance with the said condition, the said recognisance was, on the.....day of.....19....., declared by the said court to be forfeited; And whereas the saidhas made default in payment of the sum due under the said recognisance:—This is to command you forthwith to make distress of the movable property of the said(except the wearing apparel and bedding of him and his family, and, to the value of one hundred dollars, the tools and implements of his trade), and if, within the space of*days next after the making of that distress, the sum of.....being the

* See note to form 20.

LAWS OF GUYANA

84

Cap. 10:02

Summary Jurisdiction (Procedure)

sum stated at the foot of this warrant to be due under the said recognisance, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said movable property by you distrained, and pay the money arising therefrom to [*the magistrate or other person specified*] in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the saidAnd if no such distress can be found, then to certify the same to the said court, in order that further proceedings may be had according to law.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

	\$	c
Amount due under recognisance.....		
Paid		
Remaining due.....		
Costs of issuing warrant		
Total amount to be levied.....		

s. 100(2).

23

Warrant of distress for sum due under recognizance adjudged to be forfeited by conviction of principal

IN THE.....MAGISTRATE'S COURT.

To.....Police [*or other*] Constable.

Whereas *C.D.* (hereinafter called the defendant) was, by his recognisance entered into theday of19..... bound in the sum of.....the condition of the recognisance being that the defendant should (1).....And whereas the defendant having been convicted of the offence of having (2).....being offence which is in law a breach of the said condition, it was, on the.....day of.....19....., adjudged by the said court that the said recognisance was forfeited, and that the defendant should pay to [*the magistrate or other person specified*] the said sum of.....and should also pay to.....the sum of

(1) *State the condition of the recognisance.*
(2) *State the offence concisely.*

.....for costs; And it was ordered that the said sums should be paid [*as in the order*], and that, if default should be made in payment according to the said adjudication and order, the sums due thereunder should be levied by distress and sale of the movable property of the defendant; And whereas default has been made in payment according to the said adjudication and order:—This is to command you [*proceed as in last form*].

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,District.

PART VI

WARRANTS OF COMMITMENT

24.

s. 15

Warrant to remand defendant when apprehended

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [*or* Informant]

v.

C.D., Defendant.

To.....Police [*or other*] Constable, and to the Keeper of.....Prison.

Whereas on the.....day of.....19....., complaint was made [*or* information was laid] before me, the undersigned magistrate for the.....district, for that C.D. (1).....
.....And whereas the said C.D. has been apprehended under and by virtue of a warrant upon such complaint [*or information*], and is now brought before me as the magistrate aforesaid:—This is to command you, the said constable, forthwith to convey the said C.D. to the.....prison, and there deliver him to the keeper of the said prison, together with this warrant; And I hereby command you, the said keeper, to receive the said C.D. into your custody in the said prison, and there safely keep him until.....day, the.....
.....day of.....19..... when you are hereby required to cause him, the said C.D., to be conveyed and be atat.....of the clock in thenoon of the

(1) State concisely the substance of the complaint or information.

LAWS OF GUYANA

86

Cap. 10:02

Summary Jurisdiction (Procedure)

same day, before the magistrate in the said court, to answer the said complaint [or information], and to be further dealt with according to law.

Dated this..... day of19.....

(Signed).....

.....Magistrate,District.

25.

s. 33

Warrant of commitment of defendant for safe custody during an adjournment

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To.....Police [or other] Constable and to the Keeper of
.....Prison.

(1) State
concisely the
substance of
the complaint
or information.

Whereas on the.....day of.....19....., complaint was made [or information was laid] before me, the undersigned magistrate for the.....district, for that C.D. (1)And whereas the hearing of the same is adjourned today, the.....day of.....19....., at theof the clock in the.....noon, atand it is necessary that the said C.D. should in the meantime, be kept in safe custody:— This is to command you, the said constable, forthwith to convey the said C.D. to theprison, and there deliver him to the keeper of the said prison, together with this warrant; And I hereby command you, the said keeper, to receive the said C.D. into your custody in the said prison, and there safely keep him until the saidday of19....., when you are hereby required to cause him, the said C.D., to be conveyed and be, at the time and place to which the said hearing is so adjourned as aforesaid, before the magistrate in the said court, to answer further the said complaint [or information], and to be further dealt with according to law.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,District.

26.

s. 54

Warrant of commitment on conviction for penalty in the first instance

IN THEMAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To.....Police [*or other*] Constable and to the Keeper of
.....Prison.

C.D. (hereinafter called the defendant) was this day convicted before the said court for that he (1).....And it was thereby adjudged that the defendant should, for such offence, forfeit and pay the sum of[*etc., as in the conviction*], and should also pay to the said A.B. the sum of.....for his costs in that behalf; And it was further adjudged that if the said several sums should not be paid forthwith (2).....the defendant should be imprisoned in the.....prison for the term of.....unless the said several sums [and the costs and charges of the commitment] should be sooner paid; And whereas the time by the said conviction appointed for the payment of the said several sums has elapsed, but the defendant has not paid the same or any part thereof, but therein has made default:—This is to command you, the said constable, to take the defendant and him safely to convey to the said prison, and there deliver him to the keeper thereof, together with this warrant; And I hereby command you, the said keeper, to receive the defendant into your custody in the said prison, and there imprison him for the term ofunless the said several sums [and the costs and charges of the commitment, amounting to the further sum of.....] shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

(1) State the substance of the complaint or information as in the conviction.
(2) or, on or before the day of 19 ..

Dated this.....day of19.....

(Signed).....

.....Magistrate,..... District.

LAWS OF GUYANA

88

Cap. 10:02

Summary Jurisdiction (Procedure)

s. 37

27.

Warrant of commitment on conviction where the punishment is by imprisonment

IN THE.....MAGISTRATE'S COURT

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To.....Police [or other] Constable, and to the Keeper of.....Prison.

(1) State the substance of the complaint or information as in the conviction.

C.D. (hereinafter called the defendant) was this day convicted before the said court for that he (1)And it was thereby adjudged that the defendant should, for that his offence, be imprisoned in the.....prison for the term of..... :— This is to command you, the said constable, to take the defendant and him safely to convey to the said prison, and there deliver him to the keeper thereof, together with this warrant; And I hereby command you, the said keeper, to receive the defendant into your custody in the said prison, and there imprison him for the term of; And for your so doing, this shall be your sufficient warrant.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

s. 62

28.

Warrant of commitment on order in the first instance

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant,

v.

C.D., Defendant.

To.....Police [or other] Constable, and to the Keeper of.....Prison.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

89

Whereas on the.....day of19....., complaint was made before me, the undersigned magistrate for thedistrict, for that C.D. (1).....and both the said parties having appeared before the said court [*or as it may be in the order*]; And the said court having considered the matter of the said complaint, it was adjudged that the said C.D. should pay to the said A.B. the sum of.....and should also pay to the said A.B. the sum of.....for his costs in that behalf; And it was thereby also ordered that if the said several sums should not be paid on or before the.....day of19....., the said C.D. should be imprisoned in the.....prison for the term ofunless the said several sums should be sooner paid; And whereas the time by the said order appointed for the payment of the said several sums of money has elapsed, but the said C.D. has not paid them or any part thereof, but herein has made default:—This is to command you, the said constable, to take the said C.D. and him safely to convey to the said prison, and there deliver him to the keeper thereof, together with this warrant; And I hereby command you, the said keeper, to receive the said C.D. into your custody in the said prison, and there imprison him for the term of.....unless the said several sums [and the costs and charges of the commitment, amounting to the further sum of.....] shall be sooner paid; And for your so doing this shall be your sufficient warrant.

(1) State the substance of the complaint, as in the order.

Dated this.....day of19.....

(Signed).....

.....Magistrate,.....District.

29.

s. 50

Warrant of commitment pending return to warrant of distress

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [*or* Informant]

v.

C.D., Defendant.

To.....Police [*or other*] Constable, and to the Keeper of.....Prison.

LAWS OF GUYANA

90

Cap. 10:02

Summary Jurisdiction (Procedure)

(1) State the substance of the complaint or information as in the conviction.

C.D. (hereinafter called the defendant) was, on the.....day of.....19....., convicted before the said court for that he (1).....And whereas, default having been made in payment according to the said adjudication and order, a warrant of distress has been issued against the defendant in pursuance of the said conviction, but no return has been made thereto; And whereas the defendant has not given security to the satisfaction of the court for his appearance at the time and place appointed for the return of the said warrant of distress:—This is to command you, the said constable, to take the defendant and him safely to convey to theprison, and there deliver him to the keeper thereof, together with this warrant; And I hereby command you, the said keeper, to receive the defendant into your custody in the said prison, and there safely keep him until.....day, the.....day of19....., being the day appointed for the return of the said warrant of distress, unless he previously enters into a recognisance in the sum of.....with.....surety.....in the sum of[each] conditioned for his appearance on that day, and on that day, if he has not then been released by virtue of having entered into the recognisance, to cause him to be conveyed and be atof the clock in the.....noon, before the magistrate in the said court, to be further dealt with according to law.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,District.

s. 51

30.

Warrant of commitment for want of distress

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To.....Police [*or other*] Constable, and to the Keeper of.....Prison.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

91

Whereas [etc., as in one of the warrants of distress in Part V. to "has made default" and then thus:] And whereas afterwards, on theday of.....19....., I, the said magistrate, issued a warrant to.....commanding him to levy the said sums of.....and.....by distress and sale of the movable property of the defendant; And whereas it appears to me, as well by the return of the said constable to the said warrant of distress as otherwise, that the said constable has made diligent search for the movable property of the defendant, but that no sufficient distress whereon to levy the said several sums could be found:—This is to command you, the said constable, to take the defendant, and him safely to convey to the.....prison, and there deliver him to the keeper thereof, together with this warrant; And I hereby command you, the said keeper, to receive the defendant into your custody in the said prison, and there imprison him for the term ofunless the said several sums, and all costs and charges of the said distress [and of the commitment], amounting to the further sum of.....shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

Dated thisday of 19.....

(Signed).....

.....Magistrate,.....District.

31

s. 62

Warrant of commitment on order where the disobeying of it is punishable by imprisonment

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant,

v.

C.D., Defendant.

To.....Police [or other] Constable, and to the Keeper of.....Prison.

Whereas on the.....day of.....19....., complaint was made before me, the undersigned magistrate for the.....district, for that C.D. (1).....And both the said parties having appeared before the said court [or as it may be in the order]; And the said court having considered the matter of the

(1) State the substance of the complaint as in order.

L.R.O. 3/1998

LAWS OF GUYANA

92

Cap. 10:02

Summary Jurisdiction (Procedure)

(2) or, on or
before the
day of
19 .

said complaint, it was adjudged that the defendant should [etc., as in the order]; And it was also adjudged that if, upon a copy of a minute of the said order being served upon the defendant, either personally or by leaving the same for him at his last or most usual place of abode, he should refuse or neglect to obey the same, in that case the defendant should, for that his disobedience, be imprisoned in theprison for the term of.....[unless the said order should be sooner obeyed]; And it was also adjudged that the defendant should pay to the said A.B. the sum of..... for his costs in that behalf; And it was ordered that if the said sum for costs should not be paid forthwith (2).....the defendant should be imprisoned in the said prison for the term ofto commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs [and the costs and charges of the commitment] should be sooner paid; And whereas it is now proved to me that, after the making of the said order, a copy of a minute thereof was duly served upon the defendant, but he then refused [or neglected] to obey, and has not as yet obeyed, the order; And whereas the time appointed by the said order for the payment of the said sum for costs has elapsed, but the defendant has not paid the said sum or any part thereof, but therein has made default:—This is to command you, the said constable, to take the defendant and him safely to convey to the said prison, and there deliver him to the keeper thereof, together with this warrant; And I hereby command you, the said keeper, to receive the defendant into your custody in the said prison, and there imprison him for the term of.....; And further, on the termination of his imprisonment aforesaid, to imprison him for the term of.....unless the said sum for costs [and the costs and charges of the commitment, amounting to the further sum of.....] shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,..... District.

32.

s.45

Warrant of commitment for non-payment of costs upon order of dismissal of complaint or information

IN THEMAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

To.....Police [or other] Constable, and to the Keeper of
.....Prison.

Whereas on the.....day of 19....., complaint was made [or information was laid] before me, the undersigned magistrate for the.....district, for that C.D. (I).....and both the said parties having appeared before the said court [*or as it may be in the order*]; And thereupon the matter of the said complaint [or information] having been by the said court duly considered, and it manifestly appearing to the said court that the said complaint [or information] was not proved, the said court therefore dismissed the same, and adjudged that the said A.B. should pay to the said C.D. the sum of.....for his costs incurred by him in his defence in that behalf; And it was ordered that if the said sum for costs should not be paid forthwith (2).....the said A.B. should be imprisoned in the.....prison for the term of.....unless the said sum should be sooner paid; And whereas the time appointed by the said order for the payment of the said sum has elapsed, but the said A.B. has not paid it or any part of it, but therein has made default:—This is to command you, the said constable, to take the said A.B. and him safely to convey to the said prison, and there deliver him to the keeper thereof, together with this warrant; And I hereby command you, the said keeper, to receive the said A.B. into your custody in the said prison, and there imprison him for the term of.....unless the said sum [and the costs and charges of the commitment, amounting to the further sum of.....] shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

(1) State the substance of the complaint or information, as in the order.

(2) or, on or before the day of 19 .

Dated thisday of.....19.....

(Signed).....

.....Magistrate,.....District.

PART VII

RECOGNISANCES

s. 33

33.

Recognisance for appearance of defendant where the cause is adjourned or not at once proceeded with

IN THE.....MAGISTRATE'S COURT.

Be it remembered that on the.....day of.....
19....., C.D., ofand G.H., of.....
personally came before me, the undersigned magistrate for the
.....district, and severally acknowledged themselves
to owe to the State of Guyana the several sums following, namely,
the said C.D., as principal, the sum ofand the
said G.H., as surety, the sum ofto be levied on their
several movable and immovable property respectively, if the said
C.D. fails in the condition hereon endorsed.

Taken and acknowledged the day and year first above-mentioned
before me,

(Signed).....
.....Magistrate,..... District.

Condition endorsed

The condition of the within-written recognisance is that if the
within-bounden C.D. appears on.....day, the.....day of
.....19....., at.....o'clock,.....m., at
before the magistrate in the said court, to answer further the com-
plaint made [or the information laid] against him by A.B., and to be
further dealt with according to law, then the said recognisance shall
be void, but otherwise shall remain in full force.

34.

s. 33

Notification to be made to defendant and his surety on entering into such recognizance

Take notice that you, C.D., are bound, as principal, in the sum ofand you, G.H., as surety, in the sum ofthat you, C.D., personally appear on.....day, the.....day of 19....., at.....o'clock,.....m., at..... before the magistrate in the said court, to answer further a certain complaint [or information] of A.B., the further hearing of which was adjourned to the said time and place, and to be further dealt with according to law, and unless you, C.D., appear accordingly, the recognisance entered into by you, C.D., as principal, and by you, G.H., as his surety, will forthwith be levied on you severally.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

35.

s. 100

Recognisance for appearance, or for doing some other thing in, to, or before, or in a proceeding in, a magistrate's court

IN THE.....MAGISTRATE'S COURT.

We, the undersigned, C.D., ofG.H., of..... and J.K., of.....severally acknowledge ourselves to owe to the State of Guyana the several sums following, namely, the said C.D., as principal, the sum of.....and the said G.H. and J.K., as sureties, the sum of.....each, to be levied on our several movable and immovable property respectively, if the said C.D. fails in the condition hereon endorsed.

.....
(Signed, where not taken orally.)

C.D.

G.H.

J.K.

LAWS OF GUYANA

96

Cap. 10:02

Summary Jurisdiction (Procedure)

Taken [orally] before me this.....day of19.....
(Signed).....
.....Magistrate, District.

Note.—Where the recognizance is taken orally, omit the words “the undersigned” and insert the word “orally” after “taken.”

Condition endorsed

The condition of the within-written recognisance is that if the within-bounden C.D. appears on.....day, the.....day of19....., at.....of the clock in the.....noon, atbefore the magistrate in the said court, to answer [further] the complaint made [or the information laid] against him by A.B., and to be further dealt with according to law, [or appears before the said court sitting at.....for sentence when called upon, or as the case may be] then the said recognisance shall be void, but otherwise shall remain in full force.

s. 84

36.

Recognisance to keep the peace and be of good behaviour, or not to do or commit some act or thing

IN THE.....MAGISTRATE’S COURT.

We, the undersigned, C.D., of.....G.H., of.....and J.K., of.....severally acknowledge ourselves to owe to the State of Guyana the several sums following, namely, the said C.D., as principal, the sum of.....and the said G.H. and J.K., as sureties, the sum ofeach, to be levied on our several movable and immovable property respectively, if the said C.D. fails in the condition hereon endorsed.

.....

(Signed, where not taken orally.)

C.D.

G.H.

J.K.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

97

Taken [orally] before me this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

NOTE.—See note to form 35.

Condition endorsed

The condition of the within-written recognisance is that if the within-bounden C.D. keeps the peace and is of good behaviour, and especially towards A.B., of.....for the term ofnow next ensuing, [or abstains from doing the thing forbidden, or as the case may be] then the said recognisance shall be void, but otherwise shall remain in full force.

37.

s. 100

*Declaration of forfeiture or recognizance**

IN THEMAGISTRATE'S COURT.

The.....day of.....19.....

The said C.D. not having appeared [*or as the case may be*] in accordance with the said condition, this court declares that the within-written recognisance is forfeited.

(Signed).....

.....Magistrate,.....District.

38.

s. 100(2)

Summons to person bound by recognisance which is alleged to have been forfeited by conviction of principal

IN THE.....MAGISTRATE'S COURT.

To.....of.....

You are hereby summoned to appear on.....day, the.....day of.....19....., at.....o'clock.....m., at.....before the magistrate in the said court, to show cause why the recognisance entered into the.....day of.....19....., whereby you are bound to pay the sum ofshould

* To be endorsed on the recognisance.

LAWS OF GUYANA

98

Cap. 10:02

Summary Jurisdiction (Procedure)

not be adjudged to be forfeited, and why you should not be adjudged to pay that sum.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

s. 100(2)

39.

Adjudication of forfeiture of recognisance where person bound as principal has been convicted of an offence which is a breach of the condition

IN THE.....MAGISTRATE'S COURT.

Theday of.....19.....

C.D. (hereinafter called the defendant) was, by his recognisance entered into the.....day of.....19....., bound in the sum of.....the condition of the said recognisance being that the defendant should (1).....And proof having been given that the defendant has been convicted of the offence of having (2).....being an offence which is in law a breach of the condition of the said recognisance:— Therefore it is adjudged that the recognisance is forfeited, and that the defendant do pay to [*the magistrate or other persons specified*] the sum of.....and do also pay to..... the sum offor costs; And it is ordered that the said sums be paid forthwith (3).....And if default is made in payment according to this adjudication and order,* it is ordered that the said sums be levied by distress and sale of the movable property of the defendant; And, in default of sufficient distress,* it is adjudged that the defendant be imprisoned in the..... prison for the term of.....unless the said

(1) State the condition of the recognisance.
(2) State the offence concisely.

(3) or, on or before the day of 19 .

** Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no movable property whereon to levy a distress, then, instead of the words between **, say, "then, inasmuch as it has now been made to appear to the said court that the issuing of a warrant of distress in this behalf would be more injurious to the defendant or his family than imprisonment [or that the defendant has no movable property whereon to levy the said sums by distress] it is adjudged" [etc., as above to the end].*

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

99

several sums, and all costs and charges of the said distress [and of the commitment], shall be sooner paid.

(Signed).....
.....Magistrate,District.

40.

s. 100

*Oral or written acknowledgment of undertaking to perform
condition of forfeited recognisance*

IN THE.....MAGISTRATE'S COURT.

C.D. was, by his recognisance entered into the.....day of
.....19....., bound in the sum of
the condition of the recognisance being that the said C.D. should (1)
.....And default having been made in performance of
this condition, the recognisance was, on the.....day of.....
.....19....., declared to be forfeited, and the said C.D. not
having paid the said sum, a warrant of distress was, on the.....
day of 19..... 19....., issued for recovery thereof, but no
movable property has been sold under the warrant; And the said
C.D. has applied to the said court to cancel or mitigate the for-
feiture:— Now, therefore, I, the said C.D., as principal, and we,
G.H., of.....and J.K., ofas sureties [or I,
G.H., of.....as surety] hereby undertake that the con-
dition of the said recognizance shall be duly performed [and also that
the said C.D. shall, on or before the.....day of.....
19....., pay the sum of..... for costs incurred in respect of
the said forfeiture;] And I, the said principal, and we, the said
sureties [or I, the said surety] hereby severally acknowledge ourselves
bound to forfeit and pay to [the magistrate or other persons specified]
the sum of.....in case the said principal fails to perform
the condition of the said recognisance.

(1) State the
condition
of the
recognisance.

.....
(Signed, where not taken orally.)

C.D.

G.H.

[J.K.]

Taken [orally] before me this.....day of.....19.....

(Signed).....
.....Magistrate,District.

LAWS OF GUYANA

100

Cap. 10:02

Summary Jurisdiction (Procedure)

s. 100

41.

Order cancelling or mitigating forfeiture of recognisance

IN THE.....MAGISTRATE'S COURT.

A warrant of distress was, on the.....day of.....
19....., issued for levying the sum of.....declared to be
forfeited under the within-written recognisance, but no movable
property has been sold thereunder; And the said.....
has applied to this court to cancel [*or mitigate*] the forfeiture of the
said recognisance, and has given security, to the satisfaction of the
court, for the future performance of the condition of the said recog-
nisance, and has paid [*or given security for payment of*] the costs
incurred in respect of the forfeiture thereof [*or insert such other*
conditions as the court thinks just]:—Therefore the said forfeiture is
hereby cancelled [*or mitigated to the sum of*.....]

Dated this.....day of.....19.

(Signed).....

.....Magistrate,.....District.

PART VIII

SUMMARY TRIAL OF INDICTABLE OFFENCES

s. 63

42.

Summary conviction (on plea of guilty) of adult for indictable offence

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [*or Informant*]

v.

C.D., Defendant.

Theday of.....19.....

C.D. (hereinafter called the defendant), having been charged for
that he (1).....and having pleaded guilty to the said
charge; And the court being satisfied that the case is one which may
properly be dealt with summarily under the Summary Jurisdiction

(1) State
concisely the
substance of
the complaint
or information.
c. 10:02

* To be endorsed on the recognisance.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

101

(Procedure) Act:—The defendant is this day convicted before the said court of the said offence, and it is adjudged that he be, for his said offence, imprisoned in the.....prison for the term of.....[If costs are ordered, proceed as in conviction for penalty and, in default of payment, imprisonment.]

(Signed).....
.....Magistrate,..... District.

43.

s. 66

Order of dismissal of adult dealt with summarily for indictable offence

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

C.D. (hereafter called the defendant), having been charged on the complaint [or information] of A.B. for that he (1).....and, having been informed by the court of his right to be tried by a jury, consented to be dealt with summarily under the Summary Jurisdiction (Procedure) Act, and the court thought it expedient so to deal with the case; And the matter of the said complaint [or information] having been by the said court duly considered, it manifestly appears to the said court that the said complaint [or information] is not proved:—Therefore the court doth hereby dismiss the said complaint [or information]. [If costs, or costs and compensation, are ordered, proceed as in form 18.]

(1) State
concisely the
substance of
the complaint
or information.
c. 10:02

Dated this.....day of.....19.....

(Signed).....
.....Magistrate,.....District.

LAWS OF GUYANA

102

Cap. 10:02

Summary Jurisdiction (Procedure)

PART IX

MISCELLANEOUS FORMS

s. 89

44.

Order for conveyance of vagrant to alms-house and detention therein

IN THE.....MAGISTRATE'S COURT.

(1) State the substance of the charge, which must be for an offence referred to in section 89. c. 10:02

Whereas C.D. was, on the.....day of.....19..... brought before me the undersigned magistrate for the..... district charged for that he, the said C.D. (I).....And whereas it has been made to appear to me that the said C.D. is unable from physical infirmity to maintain.....self, and has no visible means of subsistence:—Now, therefore, under the provisions of the Summary Jurisdiction (Procedure) Act, I do order that the said C.D. shall be forthwith conveyed to an alms-house, and there detained until discharged in due course of law.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

s. 92

45.

Recognisance for maintenance of vagrant ordered to be detained in alms-house

IN THE.....MAGISTRATE'S COURT.

Be it remembered that on the.....day of..... 19....., E.F., of.....personally came before me, the undersigned magistrate for the.....district, and acknowledged himself to owe to the State of Guyana the sum of twenty-five dollars, to be levied on his movable and immovable property, if he, the said E.F., fails in the condition hereon endorsed.

Taken and acknowledged the day and year first above-mentioned before me.

(Signed).....

.....Magistrate,.....District.

Condition endorsed

The condition of the within-written recognisance is that if C.D., ofwho is now detained in an alms-house under an order made on the.....day of.....19....., byEsquire, magistrate for the.....district, is properly maintained and does not commit any offence against the provisions of any Act relating to vagrants, or to rogues and vagabonds, or to incorrigible rogues, then the said recognisance shall be void, but otherwise shall remain in full force.

46.

s. 37

Certificate of dismissal of complaint or information

IN THE.....MAGISTRATE'S COURT.

I hereby certify that a complaint made [or an information laid] by A.B. against C.D. for that he (I).....was, on the.....day of.....19....., considered by the said Court, and was by the said court dismissed [with costs].

State concisely the substance of the complaint.

Dated this.....day of.....19.....

(Signed)

.....Magistrate,District.

47.

s. 51

Constable's return to warrant of distress

IN THEMAGISTRATE'S COURT

A.B., Complainant, [or Informant]

v.

C.D., Defendant.

I,.....the police [or.....] constable charged with the execution of the warrant of distress in the above-mentioned case, do hereby certify to the said court that, by virtue of the said warrant, I have made diligent search for the movable property of the above-mentioned defendant; and that I can find no sufficient movable property of the said defendant whereon to levy the sum mentioned in the said warrant.

LAWS OF GUYANA

104

Cap. 10:02

Summary Jurisdiction (Procedure)

Dated this.....day of.....19.....
 (Signed).....
 Police [or.....] Constable.

s. 52

48.

*Constable's account of costs and charges incurred in execution of
 warrant of distress*

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant [or Informant]

v.

C.D., Defendant.

I,.....the police [or.....] constable charged with the execution of the warrant of distress in the above-mentioned case upon the movable property ofdated the.....day of..... 19....., hereby declare that the following is a true account of the costs and charges incurred in respect of the execution of the said warrant.

\$ c.

Total _____

Dated this.....day of.....19.....
 (Signed).....
 Police [or] Constable.

s. 83

49.

Order for restitution of property

1) State the substance of the complaint or information and describe the goods as in the conviction.
 (2) or, on or before the day of 19

IN THE.....MAGISTRATE'S COURT.

C.D. was charged before the said court for that he (1).....
 And the said C.D. has been this day convicted before the said court of the offence with which he was so charged; And it is proved to the said Court that the said goods are now in the possession of.....
of.....:—Therefore it is hereby ordered that the said.....do forthwith (2).....restore the said goods to the saidthe owner thereof.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

105

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,District.

50.

s. 11

Search warrant

DISTRICT

To.....Police [*or other*] Constable.

Whereas it appears, on the oath of A.B., ofthat there is reason to suspect that (1).....are concealed in.....at:—This is therefore to authorise and require you to enter, between the hours of.....and.....into the said premises, and to search for the said things, and to bring them before me or some other magistrate.

(1) Insert description of the things to be searched for and of the offence in respect of which the search is made.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate, District.

NOTE.—The warrant must be executed between five in the forenoon and eight in the afternoon, unless the magistrate otherwise directs.

51.

s. 34

Warrant on transfer of cause

IN THE.....MAGISTRATE'S COURT.

A.B., Complainant [or Informant]

v.

C.D., Defendant.

To.....Police [*or other*] Constable.

Whereas on the.....day of.....19....., complaint was made [or information was laid] before me, the undersigned magistrate for the.....district, for that C.D. (1)And whereas, on the hearing of the said complaint [or information] it appeared that the cause of complaint arose out of the limits of the jurisdiction of the said court, and the said court, being satisfied that it has no jurisdiction, has directed the cause to be transferred to the court having jurisdiction where the cause of

(1) State concisely the substance of the complaint or information.

LAWS OF GUYANA

106

Cap. 10:02

Summary Jurisdiction (Procedure)

complaint arose, that is to say, to the..... magistrate's court:—This is therefore to command you, the said constable, forthwith to convey the said C.D. before the magistrate of the said court, to answer the said complaint [or information], and to be further dealt with according to law.

Dated this.....day of.....19.....

(Signed).....

.....Magistrate,.....District.

s. 98(1)

52.

(as substituted by 51 of 1932)

Return of Service by a Bailiff or Constable

In the.....Judicial District Magistrate's Court.

Between

(Plaintiff,
(Complainant, or
(Informant.

and

I, (1)....., (2)

hereby certify that on the.....day of.....19.....

at (3)I served (4), a true copy

of which is annexed hereto, on (5).....

.....of (6).....

by (7)

Dated this.....day of....., 19.....

(Signed).....

(1) Full names.

(2) official position (bailiff, police or other constable, etc.).

(3) Place where process served.

(4) State nature of process served (summons, order. etc.).

(5) Name of person on whom process served.

(6) Address of person served.

(7) State mode of service.

LAWS OF GUYANA

Summary Jurisdiction (Procedure)

Cap. 10:02

107

53.

s. 98

Affidavit for use in proving service of process

No.

Return of service of process in respect of summary conviction offences causes for the.....magistrate's court.

Name of complainant	Name of defendant	Document served	Date of service	Place of service	Mode of service

I do swear that the above return of service is true and in accordance with the facts of the service.

(Signed).....

Deponent

Sworn before me by the above-named deponent.....

this.....day.....19.....

(Signed).....

.....Magistrate,.....District [*or as the case may be*].

NOTE.—In filling up the several columns it will be sufficient to write:—

in column one and column two, the initials of forenames, giving surnames in full; and

in column six, the words “personally,” or on “wife,” “son,” “daughter,” “attorney,” “agent,” “clerk,” or “servant,” as the case may require.

54.

s. 108

Record book of magistrate's court

Record Book of summary conviction offences causes in the.....
magistrate's court from the.....day of.....
 19....., to the.....day of.....19.....

LAWS OF GUYANA

108

Cap. 10:02

Summary Jurisdiction (Procedure)

No of cause.
Date of making complaint.
Name of complainant.
Name of defendant, and age, if under fourteen.
Substance of complaint.
Statute under which cause is tried.
Date of adjudication.
Minute of adjudication.
Magistrate adjudicating.
Costs.

s. 106

55.

Return of moneys received

c. 10:02

Monthly return of the magistrate ofdistrict [or of the keeper of the.....prison] under the Summary Jurisdiction (Procedure) Act, of all moneys received and when and to whom paid, from the.....day of.....19....., to theday of.....19.....

Name of person convicted.
Date of conviction or order.
Offence.
Costs.
Amount thereof paid to parties.
Names of parties.
Amount of fine received and paid to Accountant General.
Punishment when fine not paid.
Name of convicting magistrate.
Reasons for non-payment or other observations.