



LAWS OF MALAYSIA

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Act 593

CRIMINAL PROCEDURE CODE

As at 1 September 2017

CRIMINAL PROCEDURE CODE

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LAWS OF MALAYSIA

Act 593

CRIMINAL PROCEDURE CODE

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LAWS OF MALAYSIA**Act 593****CRIMINAL PROCEDURE CODE**

An Act relating to criminal procedure.

*[Throughout Malaysia—
10 January 1976, Act A324]*

PART I**PRELIMINARY****CHAPTER I****Short title**

1. This Act may be cited as the Criminal Procedure Code, and is referred to in this Act as “this Code”.

Interpretation

2. (1) In this Code—

“advocate” has the meaning assigned by section 3 of the Interpretation Acts 1948 and 1967 [Act 388];

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

“communication” means a communication received or transmitted by post or a telegraphic, telephonic or other communication received or transmitted by electricity, magnetism or other means;

“communications service provider” means a person who provides services for the transmission or reception of communications;’.

“complaint” means that allegation made orally or in writing to a Magistrate with a view to his taking action under this Code that some person whether known or unknown has committed or is guilty of an offence;

“Court” means the High Court, a Sessions Court, or a Magistrate’s Court of any class, as the context may require;

“diplomatic officer” means an Ambassador, High Commissioner, Minister, Charge d’Affaires, Deputy High Commissioner, Secretary and Attache of a Diplomatic Mission of Malaysia, including a High Commission within the meaning of the Diplomatic and Consular Officers (Oaths and Fees) Act 1959 [*Act 348*];

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

“Government Hospital” includes the University Hospital, University of Malaya;

“Government Medical Officer” or “Medical Officer” includes a medical practitioner who has been given by the Director General of Health Malaysia, an authorization in writing under section 34C of the Medical Act 1971 [*Act 50*] to perform functions specified in that section;

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

“Inspector of Police” means Inspector of Police of any class but does not include a Sub-Inspector;

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

“local limits of the jurisdiction” of a Magistrate’s Court means the limits of the ordinary administrative district in which the Court house is situated;

“Medical Director” of a psychiatric hospital includes a Deputy Medical Director;

“non-seizable offence” means an offence for which and “non-seizable case” means a case in which a police officer may not ordinarily arrest without warrant according to the third column of the First Schedule;

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

“Officer in charge of a Police District” means any police officer appointed as such and, when any officer so appointed is unable through absence, illness or otherwise to perform his duties, means the police officer designated, under the authority of the Inspector General to act for him;

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

“Police District” means any area designated as such under the Police Act 1967 [*Act 344*], and, unless and until an area is so designated, means any area constituted or recognized as a Police District at the commencement of this Code;

“postal article” shall have the meaning given to the expression by the Postal Services Act 1991 [*Act 465*];

“Registrar” means the Chief Registrar, Deputy Registrar or any Assistant Registrar of the Federal Court, of the Court of Appeal or of the High Court;

“seizable offence” means an offence for which and “seizable case” means a case in which a police officer may ordinarily arrest without warrant according to the third column of the First Schedule;

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

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

“youthful offender” means a person convicted of an offence punishable by fine or imprisonment who is of or above the age of eighteen and below the age of twenty-one.

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

(3) All words and expressions used herein and defined in the Penal Code [Act 574] or the Police Act 1967, and not hereinbefore defined shall be deemed to have the meanings attributed to them by that Code or that Act, as the case may be.

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

(5) Notwithstanding the definition of “seizable offence” in subsection (1), an offence under the Penal Code is a seizable offence if it is expressly provided in any written law that the offence is a seizable offence.

Trial of offences under Penal Code and other laws

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

Saving of powers of High Court

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

Laws of England, when applicable

5. As regards matters of criminal procedure for which no special provision has been made by this Code or by any other law for the time being in force the law relating to criminal procedure for the time being in force in England shall be applied so far as the same shall not conflict or be inconsistent with this Code and can be made auxiliary thereto.

PART II

PROVISIONS AS TO CRIMINAL COURTS

CHAPTER II

CRIMINAL COURTS IN GENERAL

Courts

6. The Courts for the administration of criminal justice in Malaysia shall be those constituted pursuant to the Constitution, or the Courts of Judicature Act 1964 [Act 91], or by the Subordinate Courts Act 1948 [Act 92], or by any other law for the time being in force.

Courts to be open

7. The place in which any criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open and public Court to which the public generally may have access

8. (*Deleted by Act A908*).

Criminal jurisdiction of Magistrates

9. Subject to the provisions of this Code every Magistrate shall have cognizance of and power and authority to—

(a) hear, try, determine and dispose of in a summary way prosecutions for offences committed wholly or in part within the local jurisdiction of such Magistrate and cognizable by such Magistrate;

(b)—(c) *(Deleted by Act A908)*;

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

(e) issue warrants to search or to cause to be searched places wherein any stolen goods or any goods, articles or things with which or in respect of which any offence has been committed are alleged to be kept or concealed, and require persons to furnish security for the peace or for their good behaviour according to law;

(f) hold inquiries of death; and

(g) do all other matters and things which a Magistrate is empowered to do by any written law.

10. *(Deleted by Act A1274)*.

PART III

GENERAL PROVISIONS

CHAPTER III

AID AND INFORMATION TO MAGISTRATES AND POLICE AND
PERSONS MAKING ARRESTS

Public, when to assist Magistrates, Justices of the Peace and police

11. Every person is bound to assist a Magistrate, Justice of the Peace, police officer or penghulu reasonably demanding his aid—

- (a) in the taking or preventing the escape of any other person who the Magistrate, Justice of the Peace, police officer or penghulu is authorized to arrest;
- (b) in the prevention of a breach of the peace or of any injury attempted be committed to any railway, tramway, canal, dock, wharf, telegraph and public property; or
- (c) in the suppression of a riot or affray.

Aid to persons other than police officer executing warrant

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

Public to give information of certain matters

13. (1) Every person aware—

- (a) of the commission of or the intention of any other person to commit any offence punishable under the Penal Code or

any other written law; or

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

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

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

Police officer bound to report certain matters

14. Every police officer and every penghulu shall forthwith communicate to the nearest Magistrate or police officer not below the rank of Inspector any information which he may have or obtain respecting—

- (a) the occurrence of any sudden or unnatural death or of any death under suspicious circumstances; or
- (b) the finding of the dead body of any person without its being known how the person came by his death.

CHAPTER IV

ARREST, ESCAPE AND RE-TAKING

Arrest, how made

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

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

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

Search of place entered by person sought to be arrested

16. (1) If any person under a warrant of arrest or any police officer or penghulu having authority to arrest has reason to believe that any person to be arrested has entered into or is within any place the person residing in or in charge of the place shall, on demand of the person so acting or the police officer or penghulu, allow him free ingress to the place and afford all reasonable facilities for a search in it.

(2) If ingress to that place cannot be obtained under subsection (1) it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity to escape for a police officer or penghulu to enter the place and search in it, and in order to effect an entrance into the place to break open any outer or inner door or window of any place whether that of the person to be arrested or of any other person if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Search of persons in place searched under warrant

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

Power to break open any place for purposes of liberation

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

No unnecessary restraint and mode of searching women

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

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

Search of persons arrested

20. Whenever a person is arrested—

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

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

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

Procedure on search of a person

20A. (1) Any search of a person shall comply with the procedure on body search as specified in the Fourth Schedule of this Code.

(2) Notwithstanding any written law, the provisions of the Fourth Schedule shall apply to any search of a person conducted by any officer of any enforcement agency conferred with the power of arrest or search of a person under any law.

(3) The Minister charged with the responsibility for internal security and public order may amend the Fourth Schedule by order published in the *Gazette*.

Power to seize offensive weapons

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

Search of person for name and address

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

When police or penghulu may arrest without warrant

23. (1) Any police officer or penghulu may without an order from a Magistrate and without a warrant arrest—

- (a) any person who has been concerned in any offence committed anywhere in Malaysia which is a seizable offence under any law in force in that part of Malaysia in which it was committed or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned;
- (b) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of housebreaking;
- (c) any person who has been proclaimed under section 44;
- (d) any person in whose possession anything is found which may reasonably be suspected to be stolen or fraudulently obtained property and who may reasonably be suspected of having committed an offence with reference to that thing;
- (e) any person who obstructs a police officer while in the execution of his duty or who has escaped or attempts to escape from lawful custody;
- (f) any person reasonably suspected of being a deserter from the Armed Forces of Malaysia;
- (g) any person found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking those precautions with a view to committing a seizable offence;
- (h) any person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself;

- (i) any person who is by repute a habitual robber, housebreaker or thief or a habitual receiver of stolen property knowing it to be stolen or who by repute habitually commits extortion or in order to commit extortion habitually puts or attempts to put persons in fear of injury;
- (j) any person in the act of committing in his presence a breach of the peace; or
- (k) any person subject to the supervision of the police who fails to comply with the requirements of section 296.

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

(3) If any person is arrested without warrant in any component territory of Malaysia (which expression shall in this subsection have the same meaning as in the Warrants and Summonses (Special Provisions) Act 1965 [*Act 6 of 1965*]) for an offence alleged to have been committed in any other component territory of Malaysia, the provisions of the Warrants and Summonses (Special Provisions) Act 1965, shall, so far as they may be appropriate and with any necessary modifications, apply for the purposes of the custody, transfer, release on bail and appearance before the appropriate Court in the other component territory of Malaysia of that person as if he had been arrested under a warrant issued by a Magistrate in the last mentioned component territory.

Refusal to give name and residence

24. (1) When any person in the presence of a police officer or penghulu commits or is accused of committing a non-seizable offence and refuses on the demand of a police officer or penghulu to give his name and residence or gives a name or residence which the officer has reason to believe to be false, he may be arrested by that police officer or penghulu in order that his name or residence may be ascertained, and he shall, within twenty-four hours of the arrest, exclusive of the time necessary for the journey, be taken before the nearest Magistrate unless

before that time his true name and residence are ascertained, in which case he shall be immediately released on his executing a bond for his appearance before a Magistrate if so required.

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

(3) When any person in the presence of a police officer or penghulu commits or is accused of committing a non-seizable offence and on the demand of a police officer or penghulu to give his name and residence gives as his residence a place not within Malaysia, he may be arrested by the police officer or penghulu and shall be taken immediately either before the nearest Magistrate who may require him to execute a bond with or without a surety for his appearance before a Magistrate if so required or may order him to be detained in custody until he can be tried, or before a police officer not below the rank of Inspector who may require him to furnish a bond with or without a surety for his appearance before a Court if required.

How person arrested by penghulu is to be dealt with

25. A penghulu making an arrest without a warrant shall without unnecessary delay hand over the person so arrested to the nearest police officer or in the absence of a police officer take such person to the nearest police station, and a police officer shall rearrest every person so arrested.

Pursuit of offenders

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

Arrest by private persons and procedure in such cases

27. (1) Any private person may arrest any person who, in his view, commits a non-bailable and seizable offence or who has been proclaimed under section 44 and shall without unnecessary delay hand over the person so arrested to the nearest police officer or, in the absence of a police officer, take that person to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of section 23 a police officer shall rearrest him.

(3) If there is reason to believe that he has committed a non-seizable offence and he refuses on the demand of a police officer to give his name and residence or gives a name or residence which the officer has reason to believe to be false or gives a residence which is not within Malaysia he shall be dealt with under section 24.

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

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

(6) If any person lawfully apprehended under subsection (5) assaults or forcibly resists the person by whom he is so apprehended or any person acting in his aid he shall be liable to a fine of one hundred ringgit.

How person arrested is to be dealt with and detention for more than twenty-four hours

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

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

(3) Such period shall not in the absence or after the expiry of a special order of a Magistrate under section 117 exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate.

Rights of person arrested

28A. (1) A person arrested without a warrant shall be informed as soon as may be of the grounds of his arrest by the police officer making the arrest.

(2) A police officer shall, before commencing any form of questioning or recording of any statement from the person arrested, inform the person that he may—

(a) communicate or attempt to communicate, with a relative or friend to inform of his whereabouts; and

(b) communicate or attempt to communicate and consult with a legal practitioner of his choice.

(3) Where the person arrested wishes to communicate or attempt to communicate with the persons referred to in paragraphs (2)(a) and (b), the police officer shall, as soon as may be, allow the arrested person to do so.

(4) Where the person arrested has requested for a legal practitioner to be consulted, the police officer shall allow a reasonable time—

(a) for the legal practitioner to be present to meet the person arrested at his place of detention; and

(b) for the consultation to take place.

(5) The consultation under subsection (4) shall be within the sight of a police officer and in circumstances, in so far as practicable, where their communication will not be overheard.

(6) The police officer shall defer any questioning or recording of any statement from the person arrested for a reasonable time until the communication or attempted communication under paragraph 2(b) or the consultation under subsection (4) has been made.

(7) The police officer shall provide reasonable facilities for the communication and consultation under this section and all such facilities provided shall be free of charge.

(8) The requirements under subsections (2), (3), (4), (5), (6) and (7) shall not apply where the police officer reasonably believes that—

(a) compliance with any of the requirements is likely to result in—

(i) an accomplice of the person arrested taking steps to avoid apprehension; or

(ii) the concealment, fabrication or destruction of evidence or the intimidation of a witness; or

(b) having regard to the safety of other persons the questioning or recording of any statement is so urgent that it should not be delayed.

(9) Subsection (8) shall only apply upon authorization by a police officer not below the rank of Deputy Superintendent of Police.

(10) The police officer giving the authorization under subsection (9) shall record the grounds of belief of the police officer that the conditions specified under subsection (8) will arise and such record shall be made as soon as practicable.

(11) The investigating officer shall comply with the requirements under subsections (2), (3), (4), (5), (6) and (7) as soon as possible after the conditions specified under subsection (8) have ceased to apply where the person arrested is still under detention under this section or under section 117.

Release of person arrested

29. No person who has been arrested by a police officer shall be released except on his own bond or on bail or under the order in writing of a Magistrate or of a police officer not below the rank of Inspector.

Offence committed in Magistrate's presence

30. When any offence is committed in the presence of a Magistrate or Justice of the Peace within the local limits of his jurisdiction he may himself arrest or authorize any person to arrest the offender, and may thereupon, subject to the provisions herein as to bail, commit the offender to custody.

Arrest by or in presence of Magistrate

31. Any Magistrate may at any time arrest or authorize the arrest in his presence within the local limits of his jurisdiction of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power on escape to pursue and retake

32. If a person in lawful custody escapes or is rescued the person from whose custody he escaped or was rescued may immediately pursue and

arrest him in any place, either within or without the jurisdiction where he was so in custody, and deal with that person as he might have done on the original taking.

Sections 16 and 18 to apply to arrests under section 32

33. Sections 16 and 18 shall apply to arrests under section 32 although the person making the arrest is not acting under a warrant and is not a police officer having authority to arrest.

CHAPTER V

PROCESSES TO COMPEL APPEARANCE

Summons

Form of summons and service

34. (1) Every summons to appear issued by a Court under this Code shall be in writing and signed as provided by the Courts of Judicature Act 1964, or the Subordinate Courts Act 1948, and shall bear the seal of the Court.

(2) Such summons shall ordinarily be served by a police officer but the Court issuing the summons may if it sees fit direct it to be served by any other person.

Summons how served

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

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

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

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

Procedure when personal service cannot be effected

36. When the person to be summoned cannot by the exercise of due diligence be found and service cannot be effected as directed by subsection 35(4) the serving officer shall affix a copy of the summons to some conspicuous part of the house or other place in which the person summoned ordinarily resides, and in such case the summons, if the Court so directs either before or after such affixing, shall be deemed to have been duly served.

Proof of service

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

37A. (*Deleted by Act 6 of 1965*).

Warrant Of Arrest

Form of warrant of arrest

38. (1) Every warrant of arrest issued by a Court under this Code shall be in writing and signed as provided by the Courts of Judicature Act 1964, or the Subordinate Courts Act 1948, and shall bear the seal of the Court.

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

Court may direct by indorsement on warrant security to be taken

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

(2) The indorsement or footnote shall state—

(a) the number of sureties;

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

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

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

Warrants, to whom directed

40. (1) A warrant of arrest shall ordinarily be directed to the Inspector General of Police and all other police officers of Malaysia, and any police officer may execute the warrant in any part of Malaysia.

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

Notification of substance of warrant

41. The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person arrested and if so required shall show him the warrant or a copy thereof under the seal of the Court issuing the warrant.

Person arrested to be brought before Court without delay

42. The police officer or other person executing a warrant of arrest shall, subject to the provisions of section 39 as to security, without unnecessary delay bring the person arrested before the Court before which he is required by law to produce that person.

Procedure on arrest of person against whom warrant is issued

43. (1) When a warrant of arrest is executed outside the local limits of the jurisdiction of the Court by which it was issued the person arrested shall, unless security is taken under section 39, be brought before the nearest Magistrate.

(2) The Magistrate shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to the Court named in the warrant:

Provided that, if the offence is bailable and the person arrested is ready and willing to give bail to the satisfaction of the Court before which he is brought or a direction has been indorsed under section 39 on the warrant and that person is ready and willing to give the security required by the direction, such last mentioned Court shall take the bail or security, as the case may be, and forward the bond to the Court named in the warrant.

(3) Nothing in this section shall be deemed to prevent a police officer from taking security under section 39.

*Proclamation and Attachment***Proclamation for person absconding**

44. (1) If any Court has reason to believe, whether after taking evidence or not, that any person against whom a warrant has been issued by it has absconded or is concealing himself so that the warrant cannot be executed the Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing the proclamation.

- (2) The proclamation shall be published as follows:
- (a) it shall be publicly read in some conspicuous place of the town, village or kampong in or near which that person ordinarily resides;
 - (b) it shall be affixed to some conspicuous part of the house or other place in which that person ordinarily resides or in some conspicuous place of the town, village or kampong; and
 - (c) a copy thereof shall be affixed to some conspicuous part of the Court-house.
- (3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with and that the proclamation was published on that day.

Attachment of property of person proclaimed

45. (1) The Court issuing a proclamation under section 44 may at any time order the attachment of any property movable or immovable or both belonging to the proclaimed person.

(2) The order shall authorize the attachment of any property belonging to the person within the local jurisdiction of the Court by which it is made, and it shall authorize the attachment of any property belonging to that person without such jurisdiction when indorsed by a Magistrate within whose jurisdiction the property is situate.

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

- (a) by seizure;
- (b) by the appointment of a receiver;

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

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

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

(a) by taking possession;

(b) by the appointment of a receiver;

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

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

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

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under rules of court in force for the time being.

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

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

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

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

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

(11) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials in summary cases before Magistrates.

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

(13) The Court may in its discretion award to the claimant costs and such advocates' fees as it thinks proper which shall be paid out of the Consolidated Fund.

Restoration of attached property

46. If within two years from the date of the attachment any person whose property is or has been at the disposal of the Government under section 45 appears voluntarily or is apprehended and brought before the Court by whose order the property was attached and proves to the

satisfaction of the Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, the property or, if the same has been sold, the nett proceeds of the sale or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

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

Issue of warrant in lieu of or in addition to summonses

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

- (a) if either before the issue of summons or after the issue of the same but before the time fixed for his appearance the Court sees reason to believe that he has absconded or will not obey the summons; or
- (b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Summonses to appear and warrants of arrest may be executed in any part of Malaysia

48. (1) All summonses to appear and warrants of arrest issued by a Magistrate's Court may be served or executed as the case may be in any part of Malaysia:

Provided that no such summons shall be served outside the local limits of the jurisdiction of the Court issuing the same unless the same

shall be indorsed by the Court with the words “For service out of the jurisdiction”.

(2) No such summons shall be indorsed by a Court issuing the same with the words “For service out of the jurisdiction” unless the Court is satisfied that there are special grounds for allowing such service, which grounds shall be recorded before the summons is so indorsed.

Power to take bond for appearance

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

Arrest on breach of bond for appearance

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

CHAPTER VI

PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVABLE PROPERTY AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED

Summons to produce document or other things

51. (1) Whenever any Court or police officer making a police investigation considers that the production of any property or document is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before that Court or officer, such Court may issue a summons or such officer a written order to the person in whose possession or power such

property or document is believed to be requiring him to attend and produce it or to produce it at the time and place stated in the summons or order.

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

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

Delivery of certain documents

51A. (1) The prosecution shall before the commencement of the trial deliver to the accused the following documents:

- (a) a copy of the information made under section 107 relating to the commission of the offence to which the accused is charged, if any;
- (b) a copy of any document which would be tendered as part of the evidence for the prosecution; and
- (c) a written statement of facts favourable to the defence of the accused signed under the hand of the Public Prosecutor or any person conducting the prosecution.

(2) Notwithstanding paragraph (c), the prosecution may not supply any fact favourable to the accused if its supply would be contrary to public interest.

(3) A document shall not be inadmissible in evidence merely because of non-compliance with subsection (1).

(4) The Court may exclude any document delivered after the commencement of the trial if it is shown that such delivery was so done deliberately and in bad faith.

(5) Where a document is delivered to the accused after the commencement of the trial, the Court shall allow the accused—

(a) a reasonable time to examine the document; and

(b) to recall or re-summon and examine any witness in relation to the document.

Procedure as to postal articles, etc.

52. (1) If any such postal article, telegram or other document is in the opinion of a Judge or a Sessions Court Judge wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, the Judge or Sessions Court Judge may require the postal or telegraph authorities to deliver that postal article, telegram or other document to such person as he may direct.

(2) If any such postal article, telegram or other document is in the opinion of the Public Prosecutor wanted for any such purpose he may require the postal or telegraph authorities to cause search to be made for and to detain that document pending the orders of a Judge or a Sessions Court Judge.

Sections 34 to 37 to apply

53. Sections 34, 35, 36 and 37 shall apply in relation to summonses under this Chapter.

Search Warrants

When search warrant may be issued

54. (1) Where—

- (a) any Court has reason to believe that a person to whom a summons under section 51 or a requisition under subsection 52(1) has been or might have been addressed will not or would not produce the property or document as required by the requisition;
- (b) that property or document is not known to the Court to be in the possession of any person; or
- (c) the Court considers that the purposes of justice or of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

the Court may issue a search warrant and the person to whom that warrant is directed may search and inspect in accordance with the warrant and the provisions herein contained.

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

(3) A search warrant shall ordinarily be directed to the Chief Police Officer of the State in which it is issued and to some other officers to be designated by name therein, and all or any of those police officers may execute the warrant.

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

Power to restrict search warrant

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

Magistrate may issue warrant authorizing search for evidence of offence

56. If a Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that anything upon, by or in respect of which an offence has been committed, or any evidence or thing which is necessary to the conduct of an investigation into any offence, may be found in any place, he may, by warrant, authorize the person to whom it is directed to enter, with such assistance, as may be required, and search the place for any such evidence or thing, and, if anything searched for is found, to seize it and bring it before the Magistrate issuing the warrant, or some other Magistrate, to be dealt with in accordance with law.

Form of search warrant

57. (1) Every search warrant issued by a Court under this Code shall be in writing and signed as provided by the Courts of Judicature Act 1964, or the Subordinate Courts Act 1948, and shall bear the seal of the Court.

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

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

Search for persons wrongfully confined

58. (1) If any Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence he may issue a search warrant.

(2) The person to whom the warrant is directed may search for the person confined.

(3) The search shall be made in accordance with the warrant and the person, if found, shall be immediately taken before a Magistrate

who shall make such order as in the circumstances of the case seems proper.

Persons in charge of closed places to allow search

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

(2) If ingress to such place cannot be so obtained the officer or other person executing the warrant may proceed in the manner provided by subsection 16(2).

Magistrate issuing search warrant may attend at its execution

60. The Magistrate by whom a search warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate may direct search in his presence

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

Search without warrant

62. (1) If information is given to any police officer, not below the rank of Inspector that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any place and he has good grounds for believing that by reason of the delay in obtaining a search warrant the property is likely to be removed, that officer by virtue of his office may search in the place specified for specific property alleged to have been stolen.

(2) A list of the property alleged to have been stolen shall be delivered or taken down in writing with a declaration stating that such property has been stolen and that the informant has good grounds for believing that the property is deposited in that place.

(3) The person from whom the property was stolen or his representative shall accompany the officer in the search.

Forfeiture of counterfeit coin

62A. (1) Any police officer not below the rank of Inspector, upon being satisfied that any person has in his possession any counterfeit coin or counterfeit current coin or any die, instrument or material for the purpose of counterfeiting any coin or current coin, may without warrant and with or without assistance enter and search any place where any such coin or any such die, instrument or material is kept and seize all the coin, die, instrument or material.

(2) Anything seized under subsection (1) shall, by order of the Court before which any person is tried relating to its possession, or where there is no trial by order of a Magistrate, be forfeited and shall be destroyed or otherwise disposed of in such manner as the Minister may direct.

Forfeiture of counterfeit currency

62B. (1) Any police officer not below the rank of Inspector, upon being satisfied that any person has in his possession any forged or counterfeit currency note or bank note or any machinery, instrument or material used or intended to be used for the forging or counterfeiting of any currency note or bank note, may without warrant and with or without assistance enter and search any place where any such currency note or bank note or any such machinery, instrument or material is kept and seize all the notes, machinery, instrument or material.

(2) Anything seized under subsection (1) shall, by order of the Court before which any person is tried relating to its possession, or where there is no trial, by order of a Magistrate, be forfeited and shall

be destroyed or otherwise disposed of in such manner as the Minister may direct.

Summary search

63. (1) Any police officer may under the circumstances mentioned in this section, be authorized in writing by the Chief Police Officer to enter, and if so authorized, may enter any place in search of stolen property and search and seize and secure any property which he believes to have been stolen in the same manner as he would be authorized to do if he had a search warrant and the property seized, if any, corresponded to the property described in the search warrant.

(2) In every case in which property is seized in pursuance of this section the person in whose place it was at the time of seizure or the person from whom it was taken, if other than the person in whose place it was, shall unless previously charged with receiving the same knowing it to have been stolen be summoned before a Magistrate to account for his possession of the property, and the Magistrate shall make such order respecting the disposal of the property and may award such costs as the justice of the case may require.

(3) The Chief Police Officer may give such authority as aforesaid in the following cases or either of them—

(a) when the place to be searched is or within the preceding twelve months has been in the occupation of or used by any person who has been convicted of receiving stolen property or of harbouring thieves; or

(b) when the place to be searched is in the occupation of or used by any person who has been convicted of an offence involving fraud or dishonesty and punishable by imprisonment.

(4) It shall not be necessary for the Chief Police Officer on giving such authority to specify any particular property but he may give the authority if he has reason to believe generally that the place is being used for the reception of stolen goods.

List of all things seized to be made and signed

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

Occupant to be present at search

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

PART IV

PREVENTION OF OFFENCES

CHAPTER VII

SECURITY FOR KEEPING THE PEACE AND
FOR GOOD BEHAVIOUR

Security for keeping the peace on conviction

66. (1) Whenever any person is convicted—

(a) of any offence which involves a breach of the peace or of abetting the same; or

(b) of committing criminal intimidation or criminal trespass or of being a member of an unlawful assembly,

and the Court before which the person is convicted is of opinion that it is necessary to require that person to execute a bond for keeping the peace, the Court may, at the time of passing sentence on that person or in lieu of any sentence, order him to execute a bond for a sum proportionate to his means with or without sureties for keeping the

peace during such period in each instance as it thinks fit to fix, not exceeding six months if the order is by a Magistrate's Court or two years if the order is by the High Court.

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

Security for keeping the peace by complainant

66A. (1) If during or after the trial of a case the Court is of opinion that the conduct of a complainant is or has been such that it is necessary to call upon him to show cause why he should not enter into a bond to keep the peace for such period not exceeding six months as the Court thinks fit to fix, the Court may summarily call upon him to do so.

(2) The evidence upon which the Court decides to call on a person to show cause under this section shall be read to the person so called on, but it shall not be necessary to recall any witness unless the person called upon desires to cross-examine the witness.

(3) The case to show cause under this section may if the Court sees fit proceed either as part of the case out of which it has arisen or as a separate proceeding.

(4) If, when so called upon, the complainant fails to show cause, the Court may order him to execute a bond to keep the peace for such period not exceeding six months as the Court thinks fit.

Security for keeping the peace in other cases

67. Whenever it appears to a Magistrate that any person residing or being within the local limits of his jurisdiction is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace within or beyond such limits, the Magistrate may, in the manner hereinafter provided require that person to show cause why he should not be ordered to execute a bond with or without sureties for keeping the peace for such period not exceeding six months as the Magistrate thinks fit to fix.

Security for good behaviour from suspected persons, vagrants and persons disseminating seditious matter

68. (1) Whenever it appears to a Magistrate that—

- (a) any person is taking precautions to conceal his presence within the local limits of his jurisdiction and that there is reason to believe that person is taking those precautions with a view to committing an offence;
- (b) there is within such limits any person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself; or
- (c) there is within such limits any person who within or without such limits either orally or in writing disseminates or attempts to disseminate or in any way abets the dissemination of—
 - (i) any seditious matter, that it is to say any matter the publication which is punishable under the Sedition Act 1948 [*Act 15*]; or
 - (ii) any matter concerning a Judge or Magistrate which amounts to criminal intimidation or defamation under the Penal Code,

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

(2) No proceedings shall be taken under paragraph (c) against the editor, proprietor, printer or publisher of any book or newspaper registered under the Printing Presses and Publications Act 1984 [*Act 301*], or under the Deposit of Library Material Act 1986 [*Act 331*], except by the order or under the authority of the Public Prosecutor.

Security for good behaviour from habitual offenders

69. Whenever it appears to a Magistrate that any person within the local limits of the jurisdiction of that Magistrate—

- (a) is a habitual robber, housebreaker or thief or a habitual receiver of stolen property knowing the same to have been stolen;
- (b) habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury;
- (c) is a habitual protector or harbourer of thieves;
- (d) is a habitual aider in the concealment or disposal of stolen property;
- (e) is a notorious bad liver or is a dangerous character; or
- (f) habitually consorts with robbers, housebreakers, thieves, prostitutes or persons who have no visible means of subsistence,

the Magistrate may, in the manner hereinafter provided, require that person to show cause why he should not be ordered to execute a bond with or without sureties for his good behaviour for such period not exceeding six months as the Magistrate thinks fit to fix.

Summons or warrant if required

70. (1) When a Magistrate acting under section 67, 68, or 69 deems it necessary to require any person to show cause under the section he shall, if that person has not been arrested without warrant and brought before the Court for the purpose of the inquiry hereinafter mentioned, issue a summons requiring him to appear and show cause or when that person is in custody but not present in Court a warrant directing the officer in whose custody he is to produce him before the Court.

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

Form of summons or warrant

71. Every summons or warrant issued under section 70 shall contain a brief statement of the substance of the information on which the summons or warrant was issued, and shall state the amount of the bond to be executed, the term for which it is to be in force and the number, character and class of sureties, if any, required.

Power to dispense with personal attendance

72. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by advocate.

Inquiry to be held

73. (1) When any person appears or is brought before a Magistrate in compliance with a summons or in execution of a warrant issued under section 70 the Magistrate shall proceed to inquire into the truth of the information on which he has acted and to take such further evidence as may be necessary.

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

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

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

Order to give security

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

Provided that—

- (a) no person shall be ordered to give security of a nature different from or for an amount larger than or for a period longer than that specified in the summons or warrant issued under section 70, if any;
- (b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive, but shall be such as to afford the person against whom the order is made a fair chance of complying with it;
- (c) when the person in respect of whom the inquiry is made is not competent to contract the bond shall be executed only by his sureties.

Discharge of person informed against

75. If on an inquiry under section 73 it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond the Magistrate shall make an entry on the record to that

effect and if that person is in custody only for the purposes of the inquiry, shall release him or, if he is not in custody, shall discharge him.

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

Commencement of period for which security is required

76. (1) If any person in respect of whom an order requiring security is made under section 66 or 74 is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of that sentence.

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

Contents of bond

77. (1) The bond to be executed by any person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the abetment of any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

(2) Every such bond shall enure throughout the whole of Malaysia.

Power to reject sureties

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

Imprisonment in default of security

79. (1) If any person ordered to give security under section 66, 66A or 74 does not give the security on or before the date on which the period for which the security is to be given commences he shall be committed to prison, or if he is already in prison be detained in prison, until the expiration of such term as the Court may direct or until within that term he gives the security to the Court which made the order requiring it or to the officer in charge of the prison in which he is detained:

Provided that the term, if any, for which any person is imprisoned for failure to give security shall not exceed the period for which security is ordered to be given.

(2) *(Omitted).*

(3) *(Omitted).*

Power to release person imprisoned for failing to give security

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

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

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

81. Whenever a Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by the High Court may be released without the hazard mentioned in section 80, the Magistrate shall make an immediate report of the case for the orders of the High Court, and such Court may if it thinks fit order that person to be discharged.

Discharge of sureties

82. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Magistrate to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

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

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

(4) Every such order shall for the purposes of sections 77, 78, 79 and 80 be deemed to be an order made under section 66 or 74, as the case may be.

CHAPTER VIII

UNLAWFUL ASSEMBLIES

Who may order unlawful assembly to disperse

83. A Magistrate, *gazetted* police officer, police officer not below the rank of Inspector or officer in charge of a police station may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse, and it shall thereupon be the duty of the members of the assembly to disperse accordingly.

Forcible dispersal of unlawful assemblies

84. If any unlawful assembly is commanded to disperse under section 83 or under section 5 of the Public Order (Preservation) Act 1958 [Act 296], and does not disperse, or if, without having been commanded to disperse, it conducts itself in such a manner as to show

a determination not to disperse, any police officer, any member of the armed forces or any other person acting in aid of a police officer or member of the armed forces may do all things necessary for dispersing the persons so continuing assembled and for apprehending them or any of them, and, if any person makes resistance, may use such force as is reasonably necessary for overcoming resistance and shall not be liable in any criminal or civil proceedings for having by the use of such force caused harm or death to any person or damage to any property.

85-87. (*Deleted by Act A324*).

Protection against prosecution

88. (1) No prosecution against any Magistrate, police officer or member of the armed forces for any act purporting to be done under this Chapter shall be instituted in any Court except with the sanction in writing of the Public Prosecutor personally or, in Sabah or Sarawak, of the Director of Public Prosecutions.

(2) Where a prosecution is sanctioned as aforesaid for an act purporting to be done under this Chapter, no Magistrate, police officer, member of the armed forces or person acting in aid of a police officer or member of the armed forces shall, if the Court is satisfied that the act was done in good faith or, if it was done by a member of the armed forces, that it was done in obedience to an order which under naval, military or air force law he was bound to obey, be deemed to have thereby committed an offence.

CHAPTER IX

PUBLIC NUISANCES

Magistrate may make conditional order for removal of nuisance

89. (1) Whenever a First Class Magistrate considers on receiving a report or other information and on taking such evidence, if any, as he thinks fit, that—

- (a) any unlawful obstruction or nuisance should be removed from any way, harbour, lake, river or channel which is or may be lawfully used by the public or from any public place;
- (b) any trade or occupation or the keeping of any goods or merchandise by reason of its being injurious to the health or physical comfort of the community should be suppressed or removed or prohibited;
- (c) the construction of any building or the disposal of any substance likely to occasion conflagration or explosion should be prevented or stopped;
- (d) any building or tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by and that in consequence its removal, repair or support is necessary; or
- (e) any tank, well or excavation adjacent to any such way as aforesaid or to any public place should be fenced in such a manner as to prevent danger arising to the public,

the Magistrate may make a conditional order requiring the person causing the obstruction or nuisance, or carrying on the trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tree, substance, tank, well or excavation within a time to be fixed in the order to—

- (aa) remove the obstruction or nuisance;
- (bb) suppress or remove the trade or occupation;
- (cc) remove the goods or merchandise;
- (dd) prevent or stop the construction of the building;
- (ee) remove, repair or support the building;
- (ff) lop or fell the tree;

(gg) alter the disposal of the substance;

(hh) fence the tank, well or excavation,

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

(2) No order duly made by a Magistrate under this section shall be called in question in any Court except by way of appeal.

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

Order to be served or notified

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

(2) If the order cannot be so served it shall be notified by proclamation published in the *Gazette*, and a copy of it shall be posted at such place as may be fittest for conveying the information to that person.

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

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

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

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

Consequence of his failing to do so

92. If such person does not perform such act or appear and show cause as required by section 91 the order shall be made absolute.

Procedure on appearance to show cause

93. (1) If such person appears and shows cause against the order the Magistrate shall take evidence in the matter.

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

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

Procedure on order being made absolute

94. When an order has been made absolute under section 92 or 93 the Magistrate shall give notice of it to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice and inform him that in case of disobedience he will be liable to the penalty prescribed in section 188 of the Penal Code:

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

Consequence of disobedience to order

95. (1) If such order is not performed within the time fixed the Magistrate may cause it to be performed and may recover the costs of performing it either by sale of the buildings, goods or other property removed by his order or by the distress and sale of any other movable property of such person within or without the local limits of the Magistrate's jurisdiction.

(2) If the property is without such limits the order shall authorize its attachment and sale when indorsed by a Magistrate within the local limits of whose jurisdiction the property to be attached is found.

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

Injunction pending final decision

96. (1) If the Magistrate making an order under section 89 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public he may issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury pending the final decision of the case.

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

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

Power to prohibit repetition or continuance of public nuisance

97. A First Class Magistrate may order any person not to repeat or continue a public nuisance as defined in the Penal Code or any other law in force for the time being.

CHAPTER X

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE

Power to issue order absolute at once in urgent cases of nuisance

98. (1) In cases where in the opinion of a Magistrate immediate prevention or speedy remedy is desirable that Magistrate may, by a

written order stating the material facts of the case and served in the manner provided in section 90, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management if the Magistrate considers that the direction is likely to prevent or tends to prevent obstruction, annoyance or injury to any persons lawfully employed, or danger to human life, health or safety, or a riot or any affray.

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

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

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

(5) No order under this section shall remain in force for more than seven days from the making of it.

(6) The Public Prosecutor may appear in any application made under this section.

CHAPTER XI

DISPUTES AS TO IMMOVABLE PROPERTY

Procedure where dispute concerning land, etc., is likely to cause breach of peace

99. (1) Whenever a First Class Magistrate is satisfied, from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof within the local limits of his jurisdiction, he shall make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in the dispute to attend his Court in person or by

advocate within a time to be fixed by the Magistrate and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section and of section 101, the expression “land or water” includes buildings, markets, fisheries, crops or other produce of land and the rents or profits of any such property.

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

(4) The Magistrate shall then, without reference to the merits of the claims of any of the parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary, and if possible decide whether any and which of the parties is then in actual possession of the said subject:

Provided that—

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

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

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

(6) If the Magistrate decides that one of the parties is then in actual possession of the said subject he shall issue an order declaring that party to be entitled to retain possession of it until evicted from it in due

course of law, and forbidding all disturbance of such possession until such eviction.

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

Power to attach subject of dispute

100. If the Magistrate decides that none of the parties is then in actual possession or is unable to satisfy himself as to which of them is then in actual possession of the subject of dispute he may attach it until a competent Civil Court has determined the rights of the parties thereto or the persons entitled to possession of it.

Disputes concerning rights over land or water

101. (1) Whenever a First Class Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any land or water situate within the local limits of his jurisdiction he may inquire into the matter and may if it appears to him that the right exists make an order permitting that thing to be done or directing that it shall not be done, as the case may be, until the person objecting to that thing being done or claiming that it may be done obtains the decision of a competent Civil Court adjudging him to be entitled to prevent the doing of or to do that thing as the case may be.

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

Order as to costs

102. When any costs have been incurred by any party to a proceeding under this Chapter for witnesses' or advocates' fees or both the Magistrate giving a decision under section 99, 100 or 101 may assess such costs and direct by whom the same shall be paid, whether by that party or by any other party to the proceeding and whether in whole or in part or proportion.

CHAPTER XII

PREVENTIVE ACTION OF THE POLICE

Police to prevent seizable offences

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

Information of design to commit seizable offences

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

Arrest to prevent seizable offences

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

Prevention of injury to public property

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

PART V

INFORMATION TO POLICE AND THEIR POWERS
TO INVESTIGATE

CHAPTER XIII

Information of offences

107. (1) Every information relating to the commission of an offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction and be read over to the informant.

(2) Every such information shall be entered in a book to be kept by that officer, who shall append to such entry the date and hour on which that information was given, and whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it.

(3) (a) Notwithstanding subsection (1), information given by a person relating to the commission of an offence to a police officer, who at the time of receiving the information is not in a police station, shall be deemed to be received at a police station.

(b) A police officer receiving such information under paragraph (a) where practicable shall record or cause to be recorded the name and address of the informant, the date and time of the receipt of such information, and shall convey such information to an officer in charge of a police station or any police officer whose duty is to receive such information.

(c) Such information shall be reduced to writing and entered in a book in accordance with subsections (1) and (2) and shall subsequently be signed by the person who gave the information.

(4) A police officer shall be duty bound to receive any information in relation to any offence committed anywhere in Malaysia.

Report on status of investigation

107A. (1) Any person who has given information under section 107 may request for a report on the status of the investigation of the offence complained of in his information from the officer in charge of a police station where he gave the information.

(2) The officer in charge of a police station shall give a status report on the investigation of such offence to the informant not later than two weeks from the receipt of the request made under subsection (1).

(3) Notwithstanding subsection (2), no officer in charge of a police station shall be required to provide a status report on an investigation of an offence—

- (a) unless the offence complained of is a seizable offence;
- (b) unless a period of four weeks has lapsed from the date of the giving of the information under section 107; and
- (c) which contains any matter that is likely to adversely affect the investigation into the offence or the prosecution of the offence.

(4) Where a request has been made under subsection (1) and the officer in charge of the police station has failed to furnish the informant with a status report within the period specified in subsection (2), but subject to subsection (3), the informant may make a report to the Public Prosecutor of the failure.

(5) Upon receipt of the report under subsection (4), the Public Prosecutor shall direct the Officer in charge of the Police District to

furnish him with a detailed status report on the investigation that has been conducted by the police in relation to the offence in the information given by the informant.

(6) The Public Prosecutor shall cause to be furnished to the informant, or direct the Officer in charge of the Police District to furnish to the informant, a status report containing such information as may be directed by the Public Prosecutor.

Procedure in non-seizable cases

108. (1) When the information aforesaid relates to the commission of a non-seizable offence that officer shall refer the informant to a Magistrate.

(2) No police officer shall in a non-seizable case exercise any of the special powers in relation to police investigations given by this Chapter without the order of the Public Prosecutor.

(3) Any police officer not below the rank of Sergeant or any officer in charge of a police station receiving such order may exercise the same powers in respect of the investigation, except the power to arrest without warrant, as that police officer may exercise without an order in a seizable case.

Admission of certified copy of information as evidence

108A. In any proceeding under this Code a copy of an entry relating to an information reduced to writing under the provisions of section 107, and purporting to be certified to be a true copy by the Officer in Charge of the Police District in which the police station where the information given is situated, shall be admitted as evidence of the contents of the original and of the time, place and manner in which the information was so recorded.

Investigation in seizable cases

109. (1) Any police officer not below the rank of Sergeant or any officer in charge of a police station may without the order of the Public Prosecutor exercise all or any of the special powers in relation to police investigations given by this Chapter in any seizable case.

(2) No proceedings of a police officer in any such case shall at any stage be called in question on the ground that the case was one in which that officer was not empowered under this section to exercise the special powers of police investigations given by this Chapter.

Procedure where seizable offence suspected

110. (1) If from information received or otherwise a police officer not below the rank of Sergeant or an officer in charge of a police station has reason to suspect the commission of a seizable offence he shall, unless the offence is of a character which the Public Prosecutor has directed need not be reported to him, immediately send a report of the same to the Public Prosecutor, and shall proceed in person or shall depute one of his subordinate officers to proceed to the spot to inquire into the facts and circumstances of the case and to take such measures as may be necessary for the discovery and, where not inexpedient, arrest of the offender:

Provided as follows—

- (a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature the police officer receiving the same need not proceed in person or depute a subordinate officer to make an inquiry on the spot;
- (b) if it appears to the police officer receiving the information that there is no sufficient ground for proceeding or further proceeding in the matter he shall not do so.

(2) In each of the cases mentioned in paragraphs (a) and (b) the police officer receiving the information shall state in his said report, if any, his reasons for not fully complying with subsection (1).

(3) Where a police officer exercises the power of deputation given by subsection (1) the subordinate officer so deputed shall not be entitled to use any of the powers given by sections 111, 112, 116 and 117.

Police officer's power to require attendance of witnesses

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

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

(3) (*Deleted by Act A1274*).

Examination of witnesses by police

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

(2) Such person shall be bound to answer all questions relating to the case put to him by that officer:

Provided that such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) A police officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be taken down in writing and signed by the person making it or affixed with his thumbprint as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish.

Admission of statements in evidence

113. (1) Except as provided in this section, no statement made by any person to a police officer in the course of a police investigation made under this Chapter shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the Court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to a police officer in the course of a police investigation under this Chapter and may then, if the Court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of a police investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to—

(a) the making; or

(b) the contents,

of any statement made by him to a police officer in the course of a police investigation made under this Chapter, that statement may be used as evidence in the prosecution's case.

No discouragement from making statement to police

114. No police officer or other person shall prevent or discourage any person from making in the course of a police investigation under this Chapter any statement which he may be disposed to make of his own free will.

115. *(Deleted by Act A1274).*

Search by police officer

116. (1) Whenever a police officer making a police investigation considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate and there is reason to believe that the person to whom a summons or order under section 51 has been or might be issued will not or would not produce the document or other thing as directed in the summons or order or when the document or other thing is not known to be in the possession of any person, the officer may search or cause search to be made for the same in any place.

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

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

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

Search and seizure without warrant

116A. (1) Whenever it appears to any police officer not below the rank of Inspector that there is reasonable cause to suspect that there is concealed or deposited in any place any evidence of the commission of a security offence or any offence relating to an organized crime and such police officer has reasonable grounds for believing that, by reason of delay in obtaining a search warrant, the object of the search is likely to be frustrated, he may—

- (a) enter any premises and there search for, seize and take possession of, any book, document, record, account or data, or other article;
- (b) inspect, make copies of, or take extracts from, any book, document, record, account or data;
- (c) search any person who is in or on such premises, and for the purpose of such search detain such person and remove him to such place as may be necessary to facilitate such search, and seize and detain such article, container or receptacle;
- (d) break open, examine, and search any article, container or receptacle; or
- (e) stop, search, and seize any conveyance.

(2) Whenever it is necessary so to do, a police officer conducting a search under subsection (1) may—

- (a) break open any outer or inner door or window of any premises and enter into, or otherwise forcibly enter the premises and every part thereof;
- (b) remove by force any obstruction to such entry, search, seizure or removal; or

(c) detain any person found in or on any premises or in any conveyance searched under subsection (1) until such premises or conveyance has been searched.

(3) No person who is detained under paragraph (2)(c) shall be searched except by a person who is of the same gender as the person to be searched.

(4) For the purpose of this section, “security offence” means a security offence as specified under the First Schedule to the Security Offences (Special Measures) Act 2012 [Act 747].

Access to computerized data

116B. (1) A police officer not below the rank of Inspector conducting a search under this Code shall be given access to computerized data whether stored in a computer or otherwise.

(2) Any information obtained under subsection (1) shall be admissible in evidence notwithstanding any other provisions in any written law to the contrary.

(3) For the purpose of this section, “access” includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of the computerized data.

Interception of communication and admissibility of intercepted communications

116c. (1) Notwithstanding any written law to the contrary, the Public Prosecutor, if he considers that it is likely to contain any information relating to the commission of an offence, may authorize a police officer—

(a) to intercept, detain and open any postal article in the course of transmission by post;

(b) to intercept any message transmitted or received by any communication; or

(c) to intercept, listen to or record any conversation by communication.

(2) The Public Prosecutor, if he considers that any communication is likely to contain any information relating to the commission of an offence, may—

(a) require a communications service provider to intercept and retain a specified communication or communications of a specified description received or transmitted, or about to be received or transmitted by that communications service provider; or

(b) authorize a police officer to enter any premises and to install on such premises, any device for the interception and retention of a specified communication or communications of a specified description and to remove and retain such device.

(3) Where any person is charged with an offence, any information obtained under subsection (1) or (2), whether before or after such person is charged, shall be admissible in evidence at his trial.

(4) An authorization by the Public Prosecutor under this section may be given either orally or in writing, but if an oral authorization is given, the Public Prosecutor shall as soon as practicable reduce the authorization in writing.

(5) The Court shall take cognizance of any authorization by the Public Prosecutor under this section.

Procedure where investigation cannot be completed within twenty-four hours

117. (1) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the

period of twenty-four hours fixed by section 28 and there are grounds for believing that the accusation or information is well founded the police officer making the investigation shall immediately transmit to a Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case and shall at the same time produce the accused before the Magistrate.

(1A) The Public Prosecutor may appear in any application made under this section.

(2) The Magistrate before whom an accused person is produced under this section may, whether he has or has no jurisdiction to try the case, authorize the detention of the accused in such custody as follows:

(a) if the offence which is being investigated is punishable with imprisonment of less than fourteen years, the detention shall not be more than four days on the first application and shall not be more than three days on the second application; or

(b) if the offence which is being investigated is punishable with death or imprisonment of fourteen years or more, the detention shall not be more than seven days on the first application and shall not be more than seven days on the second application.

(3) The officer making the investigation shall state in the copy of the entries in the diary referred to in subsection (1), any period of detention of the accused immediately prior to the application, whether or not such detention relates to the application.

(4) The Magistrate, in deciding the period of detention of the accused person, shall take into consideration any detention period immediately prior to the application, whether or not such detention relates to the application.

(5) The Magistrate in deciding the period of detention of the accused shall allow representations to be made either by the accused himself or through a counsel of his choice.

(6) If the Magistrate has no jurisdiction to try the case and considers further detention unnecessary he may order the accused person to be produced before a Magistrate having such jurisdiction or, if the case is triable only by the High Court, before himself or another Magistrate having jurisdiction with a view to transmission for trial by the High Court.

(7) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

Police officer may require bond for appearance of complainant and witnesses

118. (1) If upon a police investigation made under this Chapter it appears to the officer making the investigation that there is sufficient evidence or reasonable ground of suspicion to justify the commencement or continuance of criminal proceedings against any person, the officer shall require the complainant, if any, and so many of the persons who appear to the officer to be acquainted with the circumstances of the case, as he thinks necessary, to execute a bond to appear before a Magistrate's Court therein named and give evidence in the matter of the charge against the accused.

(2) The officer in whose presence the bond is executed shall send it to the Magistrate's Court.

(3) If any complainant or witness refuses to execute the bond, that officer shall report the same to the Magistrate's Court which may then in its discretion issue a warrant or summons to secure the attendance of the complainant or witness before itself to give evidence in the matter of the charge against the accused.

Diary of proceedings in investigation

119. (1) Every police officer making a police investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary setting forth—

- (a) the time at which the order, if any, for investigation reached him;
- (b) the time at which he began and closed the investigation;
- (c) the place or places visited by him; and
- (d) a statement of the circumstances ascertained through his investigation.

(2) Notwithstanding anything contained in the Evidence Act 1950, an accused person shall not be entitled, either before or in the course of any inquiry or trial, to call for or inspect any such diary:

Provided that if the police officer who has made the investigation refers to the diary for the purposes of section 159 or 160 of that Act, such entries only as the officer has referred to shall be shown to the accused, and the Court shall at the request of the officer cause any other entries to be concealed from view or obliterated.

Report of police officer

120. (1) Every police investigation under this Chapter shall be completed without unnecessary delay, and the officer making the investigation shall, unless the offence is of a character which the Public Prosecutor has directed need not be reported to him, submit to the Public Prosecutor a report of his investigation together with the investigation papers in respect of such investigation within one week of the expiry of the period of three months from the date of the information given under section 107.

(2) Notwithstanding subsection (1), the Public Prosecutor may at any time, regardless that the period of three months mentioned in subsection (1) has not expired, direct the officer making the investigation or the Officer in charge of the Police District to submit to the Public Prosecutor a report in the form in the Second Schedule and the investigation papers in respect of the police investigation.

PART VI

PROCEEDINGS IN PROSECUTIONS

CHAPTER XIV

JURISDICTION OF CRIMINAL COURTS IN INQUIRIES AND TRIALS

Ordinary place of inquiry and trial

121. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Accused triable in place where act is done or where consequence ensues

122. When a person is accused of the commission of any offence by reason of anything which he has done and of any consequence which has ensued, the offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done or any such consequence has ensued.

ILLUSTRATIONS

(a) A is wounded within the local limits of the jurisdiction of the Court of X and dies within those of the Court of Y. The offence of culpable homicide of A may be inquired into by the Court of either X or Y.

(b) A is wounded in the local limits of the jurisdiction of the Court of X and is during ten days more within the local limits of the Court of Y, and during ten days more within the local limits of the jurisdiction of the Court of Z, unable in the local limits of the jurisdiction of the Court of either Y or Z to follow his ordinary pursuits. The offence of unlawfully causing grievous hurt to A may be inquired into or tried by the Court of either X, Y, or Z.

(c) A is put in fear of injury within the local limits of the jurisdiction of the Court of X and is thereby induced within the local limits of the jurisdiction of the Court of Y to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried by the Court of either X or Y.

Place of trial where act is an offence by reason of relation to other offence

123. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the person was capable of committing an offence a charge of the first mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

ILLUSTRATIONS

(a) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen or by the Court within the local limits of whose jurisdiction they were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into by the Court within the local limits of whose jurisdiction the wrongful concealing or by the Court within the local limits of whose jurisdiction the kidnapping took place.

Offences of escaping from custody, of criminal misappropriation or criminal breach of trust and of stealing, where triable

124. (1) The offence of having escaped from custody may be inquired into or tried by a Court within the local limits of whose jurisdiction the alleged escape occurred or a Court within the local limits of whose jurisdiction the person charged with escaping was apprehended after the alleged escape.

(2) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received by the accused person, or the offence was committed.

(3) The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief, or by any person who receives or retains the same knowing or having reason to believe it to be stolen.

Where scene of offence is uncertain, etc.

125. If—

- (a) when it is uncertain in which of several local areas an offence was committed;
- (b) where an offence is committed partly in one local area and partly in another;
- (c) where an offence is a continuing one and continues to be committed in more local areas than one; or
- (d) where it consists of several acts done in different local areas,

it may be inquired into and tried by a Court having jurisdiction over any of such local areas.

Offence committed on a journey

126. An offence committed while the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender or the person against whom or the thing in respect of which the offence was committed passed in the course of that journey or voyage.

When doubt arises High Court to decide

127. Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this Chapter be inquired into or tried the High Court may—

- (a) of its own motion;
- (b) if a Court subordinate to the High Court refers the question to the High Court for directions; or
- (c) upon application made by the Public Prosecutor or the person charged,

decide by which Court the offence shall be inquired into or tried:

Provided that before the decision is taken by the High Court the Public Prosecutor and the person charged shall be entitled to be heard.

Liability for offences committed out of Malaysia

127A. (1) Any offence under Chapters VI, VI_A and VI_B of the Penal Code, any offence under any of the written laws specified in the Schedule to the Extra-territorial Offences Act 1976 [*Act 163*], or any offence under any other written law the commission of which is certified by the Attorney General to affect the security of Malaysia committed, as the case may be—

- (a) on the high seas on board any ship or on any aircraft registered in Malaysia;
- (b) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft;
- (c) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia;
- (d) by any person against a citizen of Malaysia;
- (e) by any person against property belonging to, or operated or controlled by, in whole or in part, the Government of Malaysia, or the Government of any State in Malaysia, any citizen of Malaysia, or any corporation created by or under the laws of Malaysia located outside Malaysia, including diplomatic or consular premises of Malaysia;

- (f) by any person to compel the Government of Malaysia or the government of any State in Malaysia to do or refrain from doing any act;
- (g) by any stateless person who has his habitual residence in Malaysia;
- (h) by any person against or on board a fixed platform while it is located on the continental shelf of Malaysia; or
- (i) by any person who after the commission of the offence is present in Malaysia,

may be dealt with as if it had been committed at any place within Malaysia:

Provided—

- (i) that notwithstanding anything in any of the preceding sections of this Chapter no charge as to any such offence shall be inquired into in Malaysia unless a diplomatic officer, if here is one, in the territory in which the offence is alleged to have been committed certifies that, in his opinion, the charge ought to be inquired into in Malaysia; and,

where there is no diplomatic officer, the sanction of the Public Prosecutor shall be required:

- (ii) that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against that person for the same offence if the offence had been committed in Malaysia shall be a bar to further proceedings against him under any written law relating to extradition or the surrender of fugitive criminals in force in Malaysia in respect of the same offence in any territory beyond the limits of Peninsular Malaysia.

(2) For the purposes of this section the expression “permanent resident” has the meaning assigned by the Courts of Judicature Act 1964.

Power to direct copies of depositions and exhibits to be received in evidence

127B. Wherever any such offence as is referred to in section 127A is being inquired into or tried, the Public Prosecutor may, if he thinks fit, direct that copies of depositions made or exhibits produced before the diplomatic officer in or for the territory in which the offence is alleged to have been committed shall be received as evidence by the Court holding the inquiry or trial in any case in which the Court might issue a commission for taking evidence as to the matter to which the depositions or exhibits relate.

Conditions Requisite for Initiation of Proceedings

Cognizance of offences by Magistrates

128. (1) Subject to this Code, a Magistrate may take cognizance of an offence—

- (a) upon receiving a complaint as defined by this Code;
- (b) upon his own knowledge or suspicion that an offence has been committed;
- (c) whenever it appears to the Public Prosecutor that an offence has been committed and he, by warrant under his hand, requires a Magistrate to inquire into the offence and that Magistrate receives the warrant;
- (d) on any person being brought before him in custody without process accused of having committed an offence which the Magistrate has jurisdiction to try.

(2) When a Magistrate takes cognizance of an offence under paragraph (b) the accused or, when there are several persons accused, any one of them shall be entitled to require that the case shall not be tried by that Magistrate but shall be tried by another Magistrate.

Sanction required for prosecution for certain offences

129. (1) Except in the case of complaints laid by the Public Prosecutor no Court shall take cognizance—

- (a) of any offence punishable under sections 172 to 188 of the Penal Code except with the previous sanction of the Public Prosecutor or on the complaint of the public servant concerned or of some public servant to whom he is subordinate;
- (b) of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Penal Code except with the previous sanction of the Public Prosecutor or when the offence is committed in or in relation to any proceeding in any Court on the complaint of such Court;
- (c) of any offence described in section 463 or punishable under section 471, 475 or 476 of the Penal Code except with the previous sanction of the Public Prosecutor, or when the offence has been committed by a party to any proceeding in Court in respect of a document given in evidence in the proceeding on the complaint of such Court.

(2) The provisions of subsection (1) with reference to the offences named in it apply also to the abetment of those offences and attempts to commit them.

(3) The sanction referred to in this section shall be in writing and may be expressed in general terms and need not name the accused person, but it shall so far as practicable specify the Court or other place in which and the occasion on which the offence was committed.

(4) When a sanction is given in respect of any offence referred to in this section the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

(5) No such sanction shall remain in force unless acted upon within one month from the date on which it was given.

Where complaint by Public Prosecutor is necessary

130. No Court shall take cognizance of any offence punishable under Chapter VI of the Penal Code, except section 127, or punishable under section 108A, 298A or 505 of the Penal Code unless upon complaint made by the Public Prosecutor or by some officer empowered by him on that behalf.

Where complaint by person aggrieved

131. No Court shall take cognizance of an offence falling under Chapter XIX or XXI of the Penal Code or under sections 493 to 496 both inclusive, except upon a complaint made by some person aggrieved by the offence or by the Public Prosecutor.

Where complaint by husband

132. No Court shall take cognizance of an offence under section 498 of the Penal Code except upon a complaint made by the husband of the woman.

CHAPTER XV

COMPLAINTS TO MAGISTRATES

Examination of complainant

133. (1) When a Magistrate takes cognizance of an offence on a complaint—

- (a) the Magistrate shall set a date to examine the complainant in accordance with this section;
- (b) the Magistrate shall serve on the Public Prosecutor a notice in writing at least seven clear days before the date of the examination of the complainant and such notice shall specify the date of the examination of the complainant and the particulars of the complaint received by the Magistrate under section 128;
- (c) the Magistrate shall not proceed to examine the complainant unless the notice required by paragraph (b) has been served on the Public Prosecutor in accordance with that paragraph;
- (d) the Magistrate shall examine the complainant upon oath and the substance of the examination of the complainant shall be reduced to writing and shall be signed by the complainant and by the Magistrate;
- (e) the Public Prosecutor may appear and assist the Magistrate in the examination of the complainant.

(1A) Notwithstanding subsection (1), the Public Prosecutor may at any stage of the examination direct the police to investigate the offence complained of and to report thereon to the Public Prosecutor.

(1B) If the Public Prosecutor directs the police to investigate the offence complained of, the Magistrate shall not proceed with the examination of the complainant.

(2) This section shall not apply to a complaint of an offence where a summons is applied for in a summons case made by a police officer, public officer or public servant acting in his official capacity.

Postponement of issue of process

134. (1) If the Magistrate sees reason to doubt the truth of a complaint of an offence of which he is authorized to take cognizance he may, when the complainant has been examined, record his reason

for doubting the truth of the complaint and may then postpone the issue of process for compelling the attendance of the person complained against and either inquire into the case himself or direct some police officer to make inquiries for the purpose of ascertaining the truth or falsehood of the complaint and report to him and to the Public Prosecutor the result of those inquiries.

(2) If the Magistrate decides to inquire into the case himself in accordance with subsection (1), the Magistrate shall serve on the Public Prosecutor a notice in writing at least seven clear days before the date of the inquiry and the Public Prosecutor may appear and assist the Magistrate in such inquiry.

Dismissal of complaint

135. (1) The Magistrate before whom a complaint is made may dismiss the complaint if after examining the complainant and recording his examination and considering the result of the inquiry, if any, made under section 134, there is in his judgment no sufficient ground for proceeding.

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

(3) Notwithstanding subsections (1) and (2), the Public Prosecutor may, if he thinks fit, inform the Magistrate that no prosecution shall proceed in respect of the offence complained of, and thereupon the Magistrate shall dismiss the complaint.

CHAPTER XVI

COMMENCEMENT OF PROCEEDINGS BEFORE A MAGISTRATE'S COURT

Issue of process

136. (1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding and the case appears

to be one in which according to the fourth column of the First Schedule a summons should issue in the first instance, he shall issue a summons for the attendance of the accused.

(2) If the case appears to be one in which according to that column a warrant should issue in the first instance, he may issue a warrant or if he thinks fit, a summons for causing the accused to be brought or to appear at a certain time before himself or some other Magistrate having jurisdiction.

(3) Nothing in this section shall be deemed to affect section 47.

Personal attendance of accused may be dispensed with

137. (1) Whenever a Magistrate issues a summons, he may, at his discretion, by indorsement thereon or footnote thereto, dispense, subject to such conditions as he may deem fit to impose, with the personal attendance of the accused and permit him to appear by advocate.

(2) In any case relating to an offence punishable by fine only or by imprisonment only of a term not exceeding three months or by both fine and imprisonment not exceeding three months and in which a Magistrate has issued a summons, an accused person desiring to plead guilty and be convicted and sentenced in his absence may appear by advocate, or may by letter addressed to the Magistrate plead guilty and submit to pay any fine which may be imposed in respect of that offence and the Magistrate may thereupon record a plea of guilty and convict him according to law, and may sentence him to a fine with or without a sentence of imprisonment in default of payment of the fine.

(3) In case of a plea of guilty by letter the accused shall give in the letter an adequate postal address and the Magistrate shall inform the accused by letter sent by registered post to that address of the sentence imposed. Any fine so imposed shall be paid by the accused within seven days from the day on which the Magistrate's letter was delivered at that address in the ordinary course of post.

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

(5) A sentence of imprisonment without the option of a fine shall not be pronounced in the absence of the accused but the Magistrate, if he intends to pass such a sentence, shall direct and enforce the personal attendance of the accused in accordance with subsection (4), and upon the attendance may, subject to subsection (6), pass sentence according to law.

(6) Upon the accused appearing as aforesaid the Magistrate shall, if the accused desires to withdraw his plea of guilty and claim trial, and notwithstanding any order of conviction made in his absence, permit the accused to withdraw such plea and shall thereupon hear and determine the case and, if the accused is convicted, pass sentence according to law.

(7) Nothing in this section contained shall affect the powers of the Court conferred by paragraph 173(o).

CHAPTER XVII

PRELIMINARY INQUIRIES INTO CASES TRIABLE BY THE HIGH COURT

138–151. (*Deleted by Act A908*).

CHAPTER XVIIA

SPECIAL PROCEDURE RELATING TO COMMITTAL IN CASES TRIABLE BY THE HIGH COURT WHERE THE ACCUSED IS LEGALLY REPRESENTED

151A–151B. (*Deleted by Act A908*).

CHAPTER XVIII

THE CHARGE

Form of charge

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

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

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

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

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

(6) If the accused has been previously convicted of any offence, and it is intended to prove that previous conviction for the purpose of increasing the punishment which the Court is competent to award, the fact, date and place of the previous conviction shall be stated in the charge. If the statement is omitted the Court may add it at any time before sentence is passed.

ILLUSTRATIONS

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Penal Code; that it did not fall within any of the general exceptions of the same Code and that it did not fall within any of the five exceptions to section 300, or that if it did fall within exception 1, one or other of the three provisos to that exception applied to it.

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

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

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

Particulars as to time, place and person

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

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 164:

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

(3) When the accused is charged with an offence relating to publication by electronic means, the place of publication is where the publication is seen, heard or read by any person.

When manner of committing offence must be stated

154. When the nature of the case is such that the particulars mentioned in sections 152 and 153 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also

contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

ILLUSTRATIONS

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

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

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

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

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

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

Sense of words used in charge to describe offence

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

Effect of errors

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

ILLUSTRATIONS

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

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

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

(d) A is charged with the murder of John Smith on 6 June 1910. In fact the murdered person’s name was James Smith and the date of the murder was 5 June 1910. A was never charged with any murder but one, and had heard the inquiry before the Magistrate which referred exclusively to the case of James Smith. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering James Smith on 5 June 1910, and John Smith (who tried to arrest him for that murder) on 6 June 1910. When charged for the murder of James Smith he was tried for the murder of John Smith. The witnesses present in his defence were witnesses in the case of James Smith. The Court may infer from this that A was misled and that the error was material.

157. (*Deleted by Act A1132*).

Court may alter or add to charge

158. (1) Any Court may alter or add to any charge at any time before judgment is pronounced.

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

*NOTE—Section 242 of the Penal Code has been repealed by Act A327 w.e.f 31 March 1976.

When trial may proceed immediately after alteration or addition

159. If a charge is framed or alteration or addition made under either section 157 or 158, the Court shall immediately call upon the accused to plead thereto and to state whether he is ready to be tried on the charge or altered or added charge. If the accused declares that he is not ready, the Court shall duly consider the reasons he may give and if proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after the charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered or added charge had been the original charge.

When new trial may be directed or trial suspended

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

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

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

Recall of witnesses when charge altered

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

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

Separate charges for distinct offences

163. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 164, 165, 166 and 170.

ILLUSTRATION

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

Three offences of same kind within twelve months may be charged together

164. (1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with and tried at one trial for any number of them not exceeding three.

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

Provided that, for the purpose of this section, an offence punishable under section 379, 380, 382, 392, 393, 394, 395, 396 or 397 of the Penal Code shall be deemed to be an offence of the same kind as an offence punishable under any other of the said sections, and that an offence punishable under any section of the Penal Code or of any other law for the time being in force shall be deemed to be an offence of the same kind as an attempt to commit such an offence, when such an attempt is an offence.

Trial for more than one offence

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

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

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

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

ILLUSTRATIONS

to subsection (1)

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

(b) *A* has in his possession several seals, knowing them to be counterfeit, and intending to use them for the purpose of committing several forgeries punishable under section 446 of the Penal Code. *A* may be separately charged with and convicted of the possession of each seal under section 473 of the Penal Code.

(c) With intent to cause injury to *B*, *A* institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses *B* of having committed an offence, knowing that there is no just or lawful ground for such charge. *A* may be separately charged with and convicted of two offences under section 211 of the Penal Code.

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

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

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

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

to subsection (2)

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

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

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

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

to subsection (3)

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

Where it is doubtful what offence has been committed

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

ILLUSTRATIONS

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

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

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

167. If in the case mentioned in section 166 the accused is charged with one offence and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

ILLUSTRATION

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

Person charged with an offence can be convicted of the attempt

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

When offence proved is included in offence charged

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

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

(3) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 131 or 132 of this Code when no complaint has been made as required by those sections.

ILLUSTRATIONS

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

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

When persons may be charged jointly

170. (1) When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing an offence and another of abetment of or attempt to commit the same offence, they may be

charged and tried together or separately as the Court thinks fit, and the provisions contained in the former part of this Chapter shall apply to all the charges.

ILLUSTRATIONS

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

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

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

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

(2) Persons accused of an offence which includes theft, extortion, criminal breach of trust, cheating or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first named persons, or of abetment of or attempting to commit any such last-named offence, may be charged and tried together.

Withdrawal of remaining charges on conviction on one of several charges

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

(2) Such withdrawal or stay shall have the effect of an acquittal on such charge or charges, unless the conviction is set aside, in which case the said Court (subject to the order of the Court setting aside the

conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn or not proceeded with.

Outstanding offences

171A. (1) Where in any criminal proceedings instituted by or on behalf of the Public Prosecutor the accused is found guilty of an offence, the Court, in determining and in passing sentence, may, with the consent of the prosecutor and the accused, take into consideration any other outstanding offence or offences which the accused admits to have committed:

Provided that, if any criminal proceedings are pending in respect of any such outstanding offence or offences and those proceedings were not instituted by or on behalf of the Public Prosecutor, the Court shall first be satisfied that the person or authority by whom those proceedings were instituted consents to that course.

(2) When consent is given as in subsection (1) and an outstanding offence is taken into consideration, the Court shall enter or cause an entry to that effect to be made on the record and upon sentence being pronounced the accused shall not, unless the conviction which has been had is set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

Charges to be in forms in Second Schedule

172. (1) All charges upon which persons are tried before the High Court shall be brought in the name of the Public Prosecutor, and be as nearly as possible in accordance with the forms in the Second Schedule and shall be signed by the Public Prosecutor or by some person authorized by him in that behalf, and in the latter case the words "By authority of the Public Prosecutor" shall be prefixed to the signature.

(2) The proceedings shall not abate or determine by reason of the death or removal from office of the Public Prosecutor.

CHAPTER XVIII

PRE-TRIAL PROCESSES

Pre-trial conference

172A. (1) An accused who is charged with an offence and claims to be tried shall, by an advocate representing him, participate in a pre-trial conference with the prosecution before the commencement of the case management.

(2) A pre-trial conference shall commence within thirty days from the date the accused was charged in court or any reasonable time before the commencement of the case management.

(3) A pre-trial conference may be conducted by any means and at any venue as may be agreed upon by the advocate representing the accused and the prosecution.

(4) During the pre-trial conference, an advocate representing an accused may discuss with the prosecution the following matters relating to the case:

- (a) identifying the factual and legal issues;
- (b) narrowing the issues of contention;
- (c) clarifying each party's position;
- (d) ensuring the compliance with section 51A;
- (e) discussing the nature of the case for the prosecution and defence, including any alibi defence that the accused may rely on;
- (f) discussing any plea bargaining, and reaching any possible agreement thereto; and

- (g) any other matters as may be agreed upon by the advocate representing the accused and the prosecution that may lead to the expeditious disposal of the case.

(5) All matters agreed upon in the pre-trial conference by the advocate and the prosecution shall be reduced into writing and signed by the accused, the advocate and the Public Prosecutor.

Case management

172B. (1) A Magistrate, Sessions Court Judge or Judge of the High Court, as the case may be, shall commence a case management process within sixty days from the date of the accused being charged and claims to be tried.

(2) At the case management, the Magistrate, Sessions Court Judge or Judge shall—

- (i) take into consideration all matters that have been considered and agreed to by the accused and his advocate and the prosecution during the pre-trial conference; and where a plea bargaining has been agreed between the accused and his advocate and the prosecution during the pre-trial conference, the Magistrate or the Sessions Court Judge or the Judge trying the case shall decide on the voluntariness of the accused in the plea bargaining according to the provisions of section 172c;
- (ii) where no pre-trial conference has been held on the ground that the accused is unrepresented, discuss with the accused and the prosecution any matter which would have been considered under section 172A;
- (iii) assist an accused who is unrepresented to appoint an advocate to represent the accused;
- (iv) determine the duration of the trial;

- (v) subject to subsection (3), fix a date for the commencement of the trial;
- (vi) subject to the consent of the accused and his advocate, and the prosecution, admit any exhibits; and
- (vii) give directions on any other matter as will promote a fair and expeditious trial.

(3) A subsequent case management, if necessary, may be held not less than two weeks before the commencement of the trial.

(4) The trial shall commence not later than ninety days from the date of the accused being charged.

(5) Notwithstanding subsections (1) and (4), a failure for the case management or the trial to commence according to the time period specified in the subsections shall not—

(a) render the charge or prosecution against the accused as defective or invalid; or

(b) be considered as a ground for appeal, review or revision.

(6) Notwithstanding the provisions of the Evidence Act 1950, all matters that have been reduced into writing and duly signed by the accused, his advocate and the prosecution under subsection 172A(5) shall be admissible in evidence at the trial of the accused.

Plea bargaining

172c. (1) An accused charged with an offence and claims to be tried may make an application for plea bargaining in the Court in which the offence is to be tried.

(2) The application under subsection (1) shall be in Form 28A of the Second Schedule and shall contain—

- (a) a brief description of the offence that the accused is charged with;
- (b) a declaration by the accused stating that the application is voluntarily made by him after understanding the nature and extent of the punishment provided under the law for the offence that the accused is charged with; and
- (c) information as to whether the plea bargaining applied for is in respect of the sentence or the charge for the offence that the accused is charged with.

(3) Upon receiving an application made under subsection (1), the Court shall issue a notice in writing to the Public Prosecutor and to the accused to appear before the Court on a date fixed for the hearing of the application.

(4) When the Public Prosecutor and the accused appear on the date fixed for the hearing of the application under subsection (3), the Court shall examine the accused *in camera*—

- (a) where the accused is unrepresented, in the absence of the Public Prosecutor; or
- (b) where the accused is represented by an advocate, in the presence of his advocate and the Public Prosecutor,

as to whether the accused has made the application voluntarily.

(5) Upon the Court being satisfied that the accused has made the application voluntarily, the Public Prosecutor and the accused shall proceed to mutually agree upon a satisfactory disposition of the case.

(6) If the Court is of the opinion that the application is made involuntarily by the accused, the Court shall dismiss the application and the case shall proceed before another Court in accordance with the provisions of the Code.

(7) Where a satisfactory disposition of the case has been agreed upon by the accused and the Public Prosecutor, the satisfactory

disposition shall be put into writing and signed by the accused, his advocate if the accused is represented, and the Public Prosecutor, and the Court shall give effect to the satisfactory disposition as agreed upon by the accused and the Public Prosecutor.

(8) In the event that no satisfactory disposition has been agreed upon by the accused and the Public Prosecutor under this section, the Court shall record such observation and the case shall proceed before another Court in accordance with the provisions of the Code.

(9) In working out a satisfactory disposition of the case under subsection (5), it is the duty of the Court to ensure that the plea bargaining process is completed voluntarily by the parties participating in the plea bargaining process.

Disposal of the case

172d. (1) Where a satisfactory disposition of the case has been agreed upon by the accused and the Public Prosecutor under section 172c, the Court shall, in accordance with law, dispose of the case in the following manner:

- (a) make any order under section 426; and
- (b) where the satisfactory disposition is in relation to a plea bargaining of the charge, find the accused guilty on the charge agreed upon in the satisfactory disposition and sentence the accused accordingly; or
- (c) where the satisfactory disposition is in relation to a plea bargaining of the sentence, find the accused guilty on the charge and—
 - (i) deal with the accused under section 293 or 294; or
 - (ii) Subject to subsections (2) and (3), sentence the accused to not more than half of the maximum punishment of imprisonment provided under the

law for the offence for which the accused has been convicted.

(2) Where there is a minimum term of imprisonment provided under the law for the offence, no accused shall be sentenced to a lesser term of imprisonment than that of the minimum term.

(3) Subparagraph (1)(c)(ii) shall not apply where—

(a) in the case of a serious offence, the accused has a previous conviction for a related or same offence; or

(b) where the offence for which the accused is charged with falls within the following:

(i) an offence for which the punishment provided under the law is fine only;

(ii) an offence for which the punishment provided under the law is imprisonment for natural life;

(iii) any sexual related offence;

(iv) any offence committed against a child who is below twelve years of age; or

(v) any other offence as may be specified by the Public Prosecutor by order published in the *Gazette*.

(4) For the purpose of paragraph (3)(a), “serious offence” means an offence where the maximum term of imprisonment that can be imposed is not less than ten years, and includes any attempt or abetment to commit such offence.

Finality of the judgment

172E. When an accused has pleaded guilty and has been convicted by the Court under section 172D, there shall be no appeal except to the extent and legality of the sentence.

Statements of, or facts stated by, accused not to be used for any other purpose

172F. Notwithstanding anything contained in any law, the statements of or facts stated by an accused in an application for a plea bargaining under section 172c shall not be used for any other purpose except for the making of such application.

Subparagraph 172D(1)(c)(ii) to be applicable to accused who pleads guilty

172G. Where an accused pleads guilty at any time before the commencement of his trial, the Court shall sentence the accused in accordance with subparagraph 172D(1)(c)(ii).

CHAPTER XIX

SUMMARY TRIALS BY MAGISTRATES

Procedure in summary trials

173. The following procedure shall be observed by Magistrates in summary trials:

- (a) When the accused appears or is brought before the Court a charge containing the particulars of the offence of which he is accused shall be framed and read and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.
- (b) If the accused pleads guilty to the charge, whether as originally framed or as amended, the plea shall be recorded and he may be convicted on it and the Court shall pass sentence according to law:

Provided that before a plea of guilty is recorded the Court shall ascertain that the accused understands the nature and

consequences of his plea and intends to admit, without qualification, the offence alleged against him.

- (c) If the accused refuses to plead or does not plead or claims to be tried, the Court shall proceed to take all such evidence as may be produced in support of the prosecution.
- (d) When the Court thinks it necessary it shall obtain from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before itself such of them as it thinks necessary.
- (e) The accused shall be allowed to cross-examine all the witnesses for the prosecution.
- (f) (i) When the case for the prosecution is concluded the Court shall consider whether the prosecution has made out a *prima facie* case against the accused.
 - (ii) If the Court finds that the prosecution has not made out a *prima facie* case against the accused, the Court shall record an order of acquittal.
- (g) Nothing in paragraph (f) shall be deemed to prevent the Court from discharging the accused at any previous stage of the case if for reasons to be recorded by the Court it considers the charge to be groundless.
- (h) (i) If the Court finds that a *prima facie* case has been made out against the accused on the offence charged, the Court shall call upon the accused to enter on his defence.
 - (ii) If the Court finds that a *prima facie* case has been made out against the accused on an offence other than the offence charged which the Court is competent to try and which in the opinion of the Court it ought to try, the Court shall amend the charge.

- (iii) For the purpose for subparagraphs (i) and (ii), a *prima facie* case is made out against the accused where the prosecution has adduced credible evidence proving each ingredient of the offence which if unrebutted or unexplained would warrant a conviction.

- (ha) When the Court calls upon the accused to enter on his defence under subparagraph (h)(i), the Court shall read and explain the three options to the accused which are as follows:
 - (i) to give sworn evidence in the witness box;
 - (ii) to give unsworn statement from the dock; or
 - (iii) to remain silent.

- (i) The charge if amended shall be read to the accused as amended and he shall be again asked whether he is guilty of the offence in the charge as amended.

- (j) (i) If the accused pleads guilty to the charge as amended, the plea shall be recorded and he may be convicted on it and the Court shall pass sentence according to law:

Provided that before a plea of guilty is recorded the Court shall ascertain that the accused understands the nature a consequences of his plea and intends to admit, without qualification, the offence alleged against him.

- (ii) If the accused does not plead guilty to the charge as amended, the accused shall be called upon to enter on his defence.

- (iii) When the accused is called upon to enter on his defence, he may produce his evidence and shall be allowed to recall and cross-examine any witness present in the Court or its precincts:

Provided that if the accused elects to be called as a witness, his evidence shall be taken before that of other witnesses for the defence:

Provided further that any accused person who elects to be called as a witness may be cross-examined on behalf of any other accused person.

- (k) If the accused puts in any written statement the Court shall file it with the record.
- (l) (i) If the accused applies to the Court to issue any process for compelling the attendance of any witness (whether he has or has not been previously examined in the case) for the purpose of examination or cross-examination or the production of any document or other thing, the Court shall issue the process unless it considers that the application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice, in which case that ground shall be recorded by it in writing.
- (ii) The Court may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.
- (m) (i) At the conclusion of the trial, the Court shall consider all the evidence adduced before it and shall decide whether the prosecution has proved its case beyond reasonable doubt.
- (ii) If the Court finds that the prosecution has proved its case beyond reasonable doubt, the Court shall find the accused guilty and he may be convicted on it and the Court shall pass sentence according to law.

Provided that before the Court passes sentence, the Court shall, upon the request of the victim of the offence or the victim's family, call upon the victim or a

member of the victim's family to make a statement on the impact of the offence on the victim or his family; and where the victim or a member of the victim's family is for any reason unable to attend the proceedings after being called by the Court, the Court may at its discretion admit a written statement of the victim or a member of the victim's family.

- (iii) If the Court finds that the prosecution has not proved its case beyond reasonable doubt, the Court shall record an order of acquittal.

- (n) When the proceedings have been instituted upon the complaint of some person upon oath under section 133 and upon any day fixed or the hearing of the case the complainant is absent and the offence may lawfully be compounded, the Court may, in its discretion, notwithstanding anything hereinbefore contained, discharge the accused at any time before calling upon him to enter upon his defence.

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

Power to discharge conditionally or unconditionally

173A. (1) Notwithstanding anything contained in section 173, the Court shall have the powers contained in this section.

(2) When any person is charged before the Court with an offence punishable by such Court, and the Court finds that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the

offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment or that it is expedient to release the offender on probation, the Court may, without proceeding to record a conviction, make an order either—

- (a) dismissing the charge or complaint after an admonition or a caution to the offender as the Court seems fit; or
- (b) discharge the offender conditionally on his entering into a bond with or without sureties, to be of good behaviour and to appear for the conviction to be recorded and for sentence when called upon at any time during such period, not exceeding three years, as may be specified in the order.

(3) The Court may, in addition to any such order, order the offender to pay such compensation for injury or for loss (not exceeding the sum of fifty ringgit) or to pay the costs of the proceedings as the Court thinks reasonable or to pay both compensation and costs.

(4) An order under this section shall for the purpose of re-vesting or restoring stolen property, and of enabling the Court to make such order as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with the restitution or delivery, have the like effect as a conviction for an offence committed in respect of such property.

(5) If the Court is satisfied by information on oath that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his apprehension.

(6) Any offender when apprehended on any such warrant shall, if not immediately brought before the Court having power to sentence him, be brought before a Magistrate who may—

- (a) either remand him by warrant until the time at which he is required by his bond to appear for judgment or until the sitting of a Court having power to deal with his original offence whichever shall first happen; or

(b) admit him to bail with a sufficient surety conditioned on his appearing for judgment.

(7) The offender when so remanded may be committed to prison and the warrant of remand shall order that he shall be brought before the Court before which he was bound to appear for judgment or to answer as to his conduct since his release.

(8) This section shall not apply—

(a) if the offender is charged with a serious offence; or

(b) if the offender is charged with the commission of an act of domestic violence as defined under section 2 of the Domestic Violence Act 1994 [Act 521].

Addresses

174. In summary trials under this Chapter—

(a) the officer conducting the prosecution need not open the case but may immediately produce his evidence;

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

(c) the officer conducting the prosecution shall have the right of reply on the whole case when the accused has adduced evidence.

Power to award compensation

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

Provided that the Court—

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

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

(2) (*Omitted*).

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

Particulars to be recorded

176. (1) In proceedings under this Chapter the Court shall keep a record of the particulars of each case by using and completing or causing to be completed a charge sheet in accordance with such forms as the Chief Judge may direct and, where all necessary particulars cannot conveniently be entered on any such form, by annexing to it any requisite number of continuation sheets.

(2) The particulars to be incorporated in the record shall include:

(a) the name of the Court and the serial number of the case;

- (b) the name and, where female, the sex of the accused;
- (c) the address of the accused;
- (d) the charge;
- (e) the return date of the summons, if any;
- (f) the date of issue of the summons or warrant, if any;
- (g) the name and address of the complainant, if any, the date of the complaint and the value of any property involved;
- (h) the date of arrest;
- (i) the date of first appearance before the Court;
- (j) the nationality of the accused;
- (k) the age of the accused;
- (l) the particulars of any bail or bond offered or taken either through the police or the Court;
- (m) the plea of the accused;
- (n) the name and title of the officer or name of the advocate conducting the prosecution and the name of the advocate, if any, appearing for the accused;
- (na) any satisfactory disposition of the case agreed upon by the accused and the Public Prosecutor under section 172c;
- (o) the date of each adjournment or postponement and the date to which the adjournment or postponement was made and the grounds for making the same;
- (p) the Court's note of the evidence, if any;
- (q) findings;

- (r) the Court's note on previous convictions, evidence of character, the victim's or a member of his family's impact statement, if any, and plea in mitigation, if any;
- (s) the sentence or other final order;
- (t) the judgment, if written;
- (u) the date on which the proceedings terminated;
- (v) the particulars of any remand warrant, fine receipt and warrant of commitment;

and, in the event of an appeal being lodged,

- (w) the dates of the notice of appeal, of any request for notes of evidence, of any notice that the notes of evidence can be had on payment, of the service of the Court's grounds of decision, and of the transmission of the record to the High Court;
- (x) if the judgment was oral, the grounds of decision;
- (y) the High Court's serial number of the appeal;
- (z) the result of the appeal and the date on which the Court was informed of it.

(3) The record shall be authenticated by the signature of the presiding officer of the Court, and shall be filed in such manner as the Chief Judge may direct.

Transfer of cases

177. In any trial before a Magistrate in which it appears at any stage of the proceedings that from any cause the case is one which in the opinion of the Magistrate ought to be tried by some Court of higher jurisdiction than his own, or if before or during the trial application is made by the Public Prosecutor, the Magistrate shall stay proceedings and transfer the case to a higher Court.

Transmission of case to, and trial by, the High Court

177A. (1) A prosecution in respect of an offence which is to be tried by the High Court in accordance with Chapter XX, shall not be instituted except by or with the consent of the Public Prosecutor:

Provided that a person may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody notwithstanding that the consent of the Public Prosecutor to the institution of a prosecution for the offence has not been obtained, but the case shall not be further prosecuted until the consent has been obtained.

(2) In any prosecution pursuant to subsection (1), the accused shall be produced before the Magistrate's Court which shall, after the charge has been explained to him, transmit the case to the High Court and cause the accused to appear or be brought before that Court as soon as may be practicable:

Provided that when the accused is brought before the Magistrate's Court before the Public Prosecutor has consented to the prosecution, the charge shall be explained to him but he shall not be called upon to plead thereto.

(3) When the accused appears or is brought before the High Court in accordance with subsection (2), the High Court shall fix a date for his trial which shall be held in accordance with the procedure under Chapter XX.

CHAPTER XX**TRIALS BEFORE THE HIGH COURT****Commencement of trial**

178. (1) When the Court is ready to commence the trial, the accused shall appear or be brought before it and the charge shall be read and explained to him and he shall be asked whether he is guilty of the offence charged or claims to be tried.

(2) If the accused pleads guilty the plea shall be recorded, and he may be convicted on it:

Provided that before a plea of guilty is recorded the Court shall ascertain that the accused understands the nature and consequences of his plea and intends to admit, without qualification, the offence alleged against him.

(3) If the accused refuses to plead or does not plead, or if he claims to be tried, the Court shall proceed to try the case.

Opening case for prosecution

179. (1) The officer conducting the prosecution shall open his case by stating shortly the nature of the offence charged and the evidence by which he proposes to prove the guilt of the accused.

(2) He shall then examine his witnesses, who may in turn be cross-examined for the defence and, if necessary, re-examined.

Procedure after conclusion of case for prosecution

180. (1) When the case for the prosecution is concluded, the Court shall consider whether the prosecution has made out a *prima facie* case against the accused.

(2) If the Court finds that the prosecution has not made out a *prima facie* case against the accused, the Court shall record an order of acquittal.

(3) If the Court finds that a *prima facie* case has been made out against the accused on the offence charged the Court shall call upon the accused to enter on his defence.

(4) For the purpose of this section, a *prima facie* case is made out against the accused where the prosecution has adduced credible evidence proving each ingredient of the offence which if unrebutted or unexplained would warrant a conviction.

Defence

181. (1) When the accused is called upon to enter on his defence he or his advocate may then open his case, stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses, if any, and after their cross-examination and re-examination, if any, may sum up his case:

Provided always that if any accused person elects to be called as a witness, his evidence shall be taken before that of other witnesses for the defence:

Provided also that any accused person who elects to be called as a witness may be cross-examined on behalf of any other accused person.

(2) The accused shall be allowed to examine any witness not previously named by him under the provisions of this Code if that witness is in attendance.

Reply

182. In all cases the officer conducting the prosecution shall have the right to reply on the whole case, whether the accused adduces evidence or not.

Procedure at the conclusion of the trial

182A. (1) At the conclusion of the trial, the Court shall consider all the evidence adduced before it and shall decide whether the prosecution has proved its case beyond reasonable doubt.

(2) If the Court finds that the prosecution has proved its case beyond reasonable doubt, the Court shall find the accused guilty and he may be convicted on it.

(3) If the Court finds that the prosecution has not proved its case beyond reasonable doubt, the Court shall record an order of acquittal.

Sentence

183. If the accused is convicted, the Court shall pass sentence according to law.

Victim's impact statement

183A. (1) Before the Court passes sentence according to law under section 183, the Court shall, upon the request of the victim of the offence or the victim's family, call upon the victim or a member of the victim's family to make a statement on the impact of the offence on the victim or his family.

(2) Where the victim or a member of the victim's family is for any reason unable to attend the proceedings after being called by the Court under subsection (1), the Court may at its discretion admit a written statement of the victim or a member of the victim's family.

CHAPTER XXI

TRIALS BEFORE THE HIGH COURT WITH THE
AID OF ASSESSORS

184–199. *(Deleted by Act A908).*

CHAPTER XXII

TRIALS BY JURY BEFORE THE HIGH COURT

199A–235. *(Deleted by Act A908).*

CHAPTER XXIII

JURORS AND ASSESSORS

235A–251. *(Deleted by Act A908).*

CHAPTER XXIV

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

252–252A. (*Deleted by Act A908*).

Procedure where there are previous convictions

253. Where the accused charged with an offence committed after a previous conviction for any offence the procedure hereinbefore laid down shall be modified as follows:

- (a) the part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge unless and until he has either pleaded guilty to or been convicted of the subsequent offence;
- (b) if he pleads guilty to or is convicted of the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the charge;
- (c) if he answers that he has been so previously convicted the Court may proceed to pass sentence on him accordingly, but if he denies that he has been so previously convicted or refuses to or does not answer such question the Court shall inquire concerning such previous conviction.

Public Prosecutor may decline to prosecute further at any stage

254. (1) At any stage of any trial, before the delivery of judgment, the Public Prosecutor may, if he thinks fit, inform the Court that he will not further prosecute the accused upon the charge and thereupon all proceedings on the charge against the accused shall be stayed and the accused shall be discharged of and from the same.

(2) At any stage of any trial before a Sessions Court or a Magistrates Court before the delivery of judgment, the officer conducting the

prosecution may, if he thinks fit, inform the Court that he does not propose further to prosecute the accused upon the charge, and thereupon all proceedings on the charge against the accused may be stayed by leave of the Court and, if so stayed, the accused shall be discharged of and from the same.

(3) Such discharge shall not amount to an acquittal unless the Court so directs.

Reinstatement of trial after discharge

254A. (1) Subject to subsection (2), where an accused has been given a discharge by the Court and he is recharged for the same offence, his trial shall be reinstated and be continued as if there had been no such order given.

(2) Subsection (1) shall only apply where witnesses have been called to give evidence at the trial before the order for a discharge has been given by the Court.

Right of accused to be defended

255. Subject to any express provision of law to the contrary, every person accused before any Criminal Court may of right be defended by an advocate.

Court may put questions to accused

256. (1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may at any stage of a trial, without previously warning the accused, put such questions to him as the Court considers necessary.

(2) For the purpose of this section the accused shall not be sworn and he shall not render himself liable to punishment by refusing to answer the questions or by giving false answers to them, but the Court may draw such inference from the refusal or answers as it thinks just.

(3) The answers given by the accused may be taken into consideration in the trial and put in evidence for or against him in any other trial for any other offence which those answers may tend to show he has committed.

(4) The examination of the accused shall be for the purpose of enabling him to explain any circumstances appearing in evidence against him and shall not be a general examination on whatever suggests itself to the Court.

(5) The discretion given by this section for questioning an accused shall not be exercised for the purpose of inducing him to make statements criminatory of himself.

(6) It shall only be exercised for the purpose of ascertaining from an accused how he may be able to meet facts disclosed in evidence against him so that those facts may not stand against him unexplained.

(7) Questions shall not be put to the accused merely to supplement the case for the prosecution when it is defective.

(8) Whenever the accused is examined under this section by any Court other than the High Court the whole of the examination including every question put to him and every answer given by him shall be recorded in full by the courts in Peninsular Malaysia in national language and by the courts in Sabah and Sarawak in English language, and the record shall be shown or read to him or, if he does not understand the national language or the English language, as the case may be, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(9) When the whole has been made conformable to what the accused declares to be the truth the record shall be signed by the presiding Magistrate.

Case for prosecution to be explained by Court to undefended accused

257. (1) At every trial before the Court of a Magistrate if and when the Court calls upon the accused for his defence it shall, if he is not

represented by an advocate, inform him of his right to give evidence on his own behalf, and if he elects to give evidence on his own behalf shall call his attention to the principal points in the evidence for the prosecution which tell against him in order that he may have an opportunity of explaining them.

(2) The failure at any trial of any accused to give evidence shall not be made the subject of adverse criticism by the prosecution.

Procedure where accused does not understand proceedings

258. If the accused, though not insane, cannot be made to understand the proceedings the Court may proceed with the trial and, in the case of the Court of a Magistrate if the trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the Court of a Judge shall make therein such order or pass such sentence as it thinks fit.

Power to postpone or adjourn proceedings

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

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding eight days at a time:

Provided further that where a Government Medical Officer has certified that the complainant will not be able to give evidence before a certain date the accused may be remanded until such date notwithstanding that the term of remand may exceed eight days.

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

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

Compounding offences

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

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

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

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

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

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

PART A

Offence	Section of Penal Code applicable	Person by whom offence may be compounded
Uttering words, etc., with deliberate intent to wound the religious feeling of any person	298	The person whose religious feelings are intended to be wounded
Causing hurt	323, 334	The person to whom the hurt is caused
Wrongfully restraining or confining any person	341, 342	The person restrained or confined
Assault or use of criminal force	352, 355, 358	The person assaulted or to whom criminal force is used
Unlawful compulsory labour	374	The person compelled to labour
Mischief when the only loss or damage caused is loss or damage to a private person	426, 427	The person to whom the loss or damage is caused
Criminal trespass	447	The person in possession of the property trespassed upon
House-trespass	448	The person in possession of the property trespassed upon
Criminal breach of contract of service	491	The person with whom the offender has contracted
Enticing or taking away or detaining with a criminal intent a married woman	498	The husband of the woman
Defamation	500	The person defamed

Printing or engraving matter knowing it to be defamatory	501	”
Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter	502	”
Insult intended to provoke a breach of the peace	504	The person insulted

PART B

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

Change of Magistrate during hearing

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

Provided as follows:

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

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

Detention of offenders attending in Court

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

(2) When the detention takes place after a trial has been begun, the proceedings in respect of that person shall be commenced afresh and the witnesses reheard.

Weekly or public holiday

263. No proceeding of any Criminal Court shall be invalid by reason of its happening on a weekly holiday or public holiday.

CHAPTER XXV

MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS

Evidence to be taken in presence of accused

264. Except as otherwise expressly provided all evidence taken under Chapters XIX and XX shall be taken in the presence of the accused or, when his personal attendance is dispensed with, in the presence of his advocate.

Manner of recording evidence

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

Special provisions relating to protected witness

265A. (1) Notwithstanding section 264, where at any time during any trial, any of the witnesses for the prosecution refuses to have his identity disclosed and wishes to give evidence in such a manner that he would not be seen or heard by both the accused and his counsel, the Public Prosecutor may make an oral application to the Court for the procedures in this section to apply.

(2) For the purpose of satisfying itself as to the need to protect the identity of the witness, the Court shall hold an inquiry *in camera* by questioning the witnesses concerned or any other witness in the absence of the accused and his counsel.

(3) If after such inquiry the Court is satisfied as to the need to protect the identity of the witness, the evidence of such witness shall be given in such a manner that the witness would not be visible to the accused and his counsel and further if the witness fears that his voice may be recognized, his evidence shall be given in such manner that he would not be heard by the accused and his counsel.

(4) The evidence given by the witness under subsection (3) shall be given to the accused and his counsel provided that the Court shall cause the evidence leading to the identity of the witness to be concealed.

(5) The Court shall disallow any question by the accused or his counsel to any other witness that would lead to the identification of the witness who has given his evidence under this section.

(6) Where a witness gives evidence in accordance with this section, he shall for the purposes of this Code and the Evidence Act

1950 be deemed to be giving evidence in the presence of the Court, the accused person and his counsel.

(7) The Court shall seal all records that may lead to the identification of the witness who has given evidence under this section.

Identification by witness where evidence is taken *in camera*

265B. If in the course of taking evidence under section 265A the accused or any other person is required to be identified by the witness who gives evidence in the manner provided in that section, such identification may be made by the witness through an interpreter or other officer of the Court.

Protection of identity of witness

265C. Notwithstanding any written law to the contrary, any report through any means on a protected witness shall not reveal or contain—

- (a) the name;
- (b) the address;
- (c) the picture of the protected witness or any other person, place or thing which may lead to the identification of the protected witness; or
- (d) any evidence or any other thing likely to lead to the identification of the protected witness.

Recording evidence in summons cases

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

(2) If the Magistrate is prevented from making a note as required in subsection (1) he shall record the reason of his inability to do so and shall cause such note to be made in writing from his dictation in open court and shall sign the same, and such note shall form part of the record.

Recording evidence in other cases

267. In all other trials before a Magistrate's Court, and in all inquiries under Chapter XI, the evidence of each witness shall be taken down in legible handwriting by the presiding Magistrate and shall form part of the record.

Record to be in narrative form

268. (1) Evidence taken under section 267 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

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

Reading over evidence and correction

269. (1) The evidence of each witness taken in inquiries under Chapter XI shall be read over to him in the presence and hearing of the accused, if in attendance, or of his advocate, if he appears by advocate, and shall if necessary be corrected.

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

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

(4) When the evidence has been read over to the witness and every correction, if any, asked for by him has been made or noted the witness shall subscribe the deposition with his signature, and in the event of his refusing to do so the Magistrate shall record such refusal.

(5) When a deposition has been read over to a witness and acknowledged to be correct the Magistrate shall append to the evidence of the witness a certificate signed with his signature or initials to the following effect:

“Read over (*and interpreted*) to the witness in the presence and hearing of the accused and admitted by the witness to be correct.”.

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

Interpretation of evidence to accused

270. (1) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open court in a language which he understands.

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

Remarks as to demeanour of witness

271. A presiding Magistrate recording the evidence of a witness may, at the conclusion of the evidence and at the foot of the notes of it,

record such remarks, if any, as he thinks material respecting the demeanour of the witness while under examination.

Judge to take notes of evidence

272. In all criminal cases tried before the High Court the Judge shall take down in writing notes of the evidence adduced.

Other persons may be authorized to take down notes of evidence

272A. Nothing in this Chapter shall prevent a Judge or Magistrate in an inquiry or trial causing verbatim notes to be taken by another person of what each witness deposes in addition to any note of a substance of it which may be made or taken by the Judge or Magistrate himself; and such note shall form part of the record.

Evidence through live video or live television links

272B. (1) Notwithstanding any other provision of this Code or the Evidence Act 1950, a person, other than the accused, may, with leave of the Court, give video or live evidence through a live video or live television link in any trial or inquiry, if it is expedient in the interest of justice to do so.

(2) The Court may, in the exercise of its power under subsection (1), make an order on any or all of the following matters:

- (a) the persons who may be present at the place where the witness is giving evidence;
- (b) that a person be excluded from the place while the witness is giving evidence;
- (c) the persons in the courtroom who must be able to be heard, or seen and heard, by the witness, and by the persons with the witness;

- (d) the persons in the courtroom who must not be able to be heard, or seen and heard, by the witness and by the persons with the witness;
- (e) the persons in the courtroom who must be able to see and hear the witness and the persons with the witness;
- (f) the stages in the proceedings during which a specified part of the order is to have effect;
- (g) the method of operation of the live video or live television link system including compliance with such minimum technical standards as may be determined by the Chief Justice; and
- (h) any other order the Court considers necessary in the interest of justice.

(3) The Court shall not give leave under subsection (1) or make an order under subsection (2) if, in the opinion of the Court, to do so would be inconsistent with the Court's duty to ensure that the proceedings are conducted fairly to the parties to the proceedings.

(4) Evidence given by a witness through live video or live television link by virtue of this section shall be deemed for the purposes of sections 193, 194, 195, 196, 205 and 209 of the Penal Code as having been given in the proceedings in which it is given.

(5) Where a witness gives evidence in accordance with this section, he shall for the purposes of this Code and the Evidence Act 1950 be deemed to be giving evidence in the presence of the Court, the accused person or his advocate, as the case may be.

(6) Where any video or live evidence given under this section is recorded on any medium, electronic or otherwise, such recording shall form part of the record.

CHAPTER XXVA

RECORDING OF PROCEEDINGS BY MECHANICAL MEANS

Application of this Chapter

272c. Notwithstanding the provisions contained in Chapter XXV or any other provisions of this Code, or the provisions of any other written law, dealing with the mode of taking and recording of evidence, any mechanical means may be employed for the recording of any proceedings before the Special Court, the Federal Court, the Court of Appeal, the High Court, the Sessions Court, the Magistrate Court and the Court for Children and where mechanical means are employed the provisions of this Chapter shall apply.

Interpretation for the purposes of this Chapter

272d. (1) In this Chapter—

- (a) “electronic record” means any digitally, electronically, magnetically or mechanically produced records stored in any equipment, device, apparatus or medium or any other form of storage such as disc, tape, film, sound track, and includes a replication of such recording to a separate storage equipment, device, apparatus or medium or any other form of storage;
- (b) “mechanical means” includes any equipment, device, apparatus or medium operated digitally, electronically, magnetically or mechanically; and
- (c) “proceedings” includes any trial, inquiry, appeal or revision, or any part of it, any application, judgment, decision, ruling, direction, address, submission and any other matter done or said by or before a Court, including matters relating to procedure.

(2) A reference to a Judge in this Chapter shall be a reference to a Judge of the Special Court, the Federal Court, the Court of Appeal, the High Court or the Sessions Court, as the case may be.

Proceedings may be recorded by mechanical means or combination of mechanical means and other modes

272E. (1) A Judge or Magistrate shall have the discretion to direct that any proceedings before any Court be recorded, in whole or in part, by any mechanical means or a combination of any mechanical means.

(2) Where any Judge or Magistrate directs that any proceedings be recorded by any mechanical means, the Judge or Magistrate shall satisfy himself as to the efficiency and functional capability of such mechanical means and that the mechanical means used for recording is in good working order for the purpose of ensuring that the electronic record of such proceedings is clear and accurate.

(3) Notwithstanding that any proceedings are being recorded by any mechanical means, a Judge or Magistrate may—

(a) employ any other mode of taking and recording of evidence; and

(b) at any time, direct that such recording be discontinued and that the recording of such proceedings be continued by any other mechanical means or any other mode of taking and recording of evidence.

(4) Where a Judge or Magistrate makes a ruling that any evidence adduced is inadmissible or irrelevant and shall not form part of the record of proceedings, he may direct that the electronic record of such evidence be erased or otherwise omitted from the record of proceedings.

Electronic record to be transcribed

272F. (1) Where any proceedings before any Judge or Magistrate are recorded by any mechanical means, the Judge or Magistrate shall cause

the electronic record of such proceedings to be transcribed by any person authorized in writing by the Judge or Magistrate.

(2) Where any person authorized to transcribe under subsection (1) is not a public servant, such person shall be deemed to be a public servant within the meaning of the Penal Code while discharging his duties as such transcriber.

(3) Upon the production of the transcript by any person authorized under subsection (1), the Judge or Magistrate shall ascertain the accuracy and reliability of such transcript and where the Judge or Magistrate makes a ruling that any evidence recorded is inadmissible or irrelevant and shall not form part of the record of proceedings, he may direct that the electronic record of such evidence be excluded from the record of proceedings.

(4) The transcript shall be authenticated by the signature of the Judge or Magistrate.

Safe custody of electronic record and transcript

272G. (1) The Judge or Magistrate shall cause any electronic record of any proceedings before the Judge or Magistrate and the authenticated copy of the transcript of such electronic record to be kept in safe custody.

(2) The electronic record shall not be erased, destroyed or otherwise disposed of—

(a) within the time allowed by law for instituting any appeal or revision in relation to the proceedings in question; or

(b) where an appeal or revision in relation to the proceedings in question is instituted, until that appeal or revision is finally determined or otherwise terminated.

(3) Upon compliance with subsection (2), the provisions of the National Archives Act 2003 [Act 629] shall apply for the destruction and disposal of the electronic record and transcript.

Transcript of statement, evidence or deposition of person or witness

272H. (1) Where it is required by law that any statement, evidence or deposition of any person or witness is to be read over to and signed by such person or witness, or that any statement, evidence or deposition is to be reduced to or taken down in writing and signed, or there is any other procedure to the like effect, it shall be sufficient for all purposes if such statement, evidence or deposition is recorded and transcribed in accordance with this Chapter.

(2) Notwithstanding that any statement, evidence or deposition has been recorded and transcribed under subsection (1), the transcript of such statement, evidence or deposition may be read over to and signed by the person or witness making such statement, evidence or deposition in accordance with section 269.

Transcript to form part of record or notes of proceedings or evidence

272I. A reference in any law to the record or notes of proceedings or evidence shall include a reference to the authenticated copy of any transcript of any electronic record and such transcript shall form part of the record or notes of proceedings or evidence.

Electronic filing, lodgement, submission and transmission of document

272J. Where any document relating to any proceedings is required to be filed, lodged with, submitted or transmitted to the Court, such filing, lodgement, submission or transmission may be done electronically as may be determined by the Court.

Issuance of Practice Direction

272K. The Chief Justice may, where necessary, issue Practice Direction relating to the use of mechanical means and any matter related to it.

CHAPTER XXVI

JUDGMENT

Mode of delivering judgment

273. The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open court, either immediately or at some subsequent time of which due notice shall be given to the parties or their advocates, and the accused shall, if in custody, be brought up or, if not in custody, shall be required to attend to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only.

274. *(Deleted by F.M. No. 1 of 1948).*

Sentence of death not to be passed on pregnant woman

275. Where a woman convicted of an offence punishable with death is alleged to be pregnant, or where the Court before whom a woman is so convicted thinks fit, the Court shall direct one or more medical practitioners to be sworn to examine that woman in some private place and to enquire whether she is pregnant or not, and if upon the report of any of them it appears that she is pregnant the sentence to be passed upon her shall be a sentence of *imprisonment for life instead of sentence of death.

Judgment in the alternative

276. When a conviction is under the Penal Code and it is doubtful under which of two sections or under which of two parts of the same section of that Code the offence falls, the Court shall state accordingly and pass judgment in the alternative.

*NOTE—A sentence of imprisonment for life shall be deemed for all purposes to be a sentence of imprisonment for thirty years—see section 3 of the Criminal Justice Act 1953 [Act 345].

Judgment of death

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

Judgment not to be altered

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

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

Judgment to be explained to accused and copy supplied

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

Judgment to be filed with record

280. The original judgment shall be entered on and if written filed with the record of proceedings.

CHAPTER XXVII

SENTENCES AND THE CARRYING OUT OF IT

Provisions as to execution of sentences of death

281. With regard to sentences of death the following provisions shall be followed:

- (a) after sentence has been pronounced a warrant, under the seal of the Court, shall be made out for the commitment of the person sentenced to the custody of the officer in charge of the district prison, and the warrant shall be full authority to the said officer, or any officer appointed by him for that purpose, for receiving into his custody and detaining the person so sentenced until the further warrant or order of the Court;
- (b) (i) in cases in which notice of appeal is not given within the prescribed period, the Judge passing sentence of death shall, as soon as conveniently may be after such period has elapsed, forward to the Menteri Besar of the State in which the crime was committed, a copy of the notes of evidence taken on the trial, together with a report in writing signed by him, setting out his opinion whether there are any reasons, and, if any, what reasons there are, why the sentence of death should or should not be carried out;
- (ii) in cases in which notice of appeal is given the Judge who passed sentence of death shall, as soon as conveniently may be after the appeal has been determined by the Court of Appeal, forward to the Federal Court the report in writing referred to in subparagraph (i); and, if the Federal Court dismisses the appeal made to it, the Judge presiding in that Court shall as soon as conveniently may be after the dismissal forward to the aforesaid Menteri Besar, the said report in writing together with a copy of the notes of evidence taken at the original trial, a copy of the record of the proceedings before the Federal Court and also such report, if any, on the case as the Federal Court may think fit to make signed by the Judge presiding in the Federal Court;
- (c) the Menteri Besar shall, upon receipt of the proceedings, submit the same to the Ruler of the State and shall communicate to the Court of the Judge passing sentence a copy under his hand and seal of any order the Ruler of the

State may, acting in accordance with Article 42 of the Constitution, make thereon, which order, if the sentence is to be carried out, shall state the place where the execution is to be held, and if the sentence is commuted into any other punishment shall so state; and if the person sentenced is pardoned shall so state;

- (d) (i) on receiving the copy of the said order the Court shall cause the effect of the same to be entered in the records of the Court, and when the said order directs the sentence to be carried out shall appoint the time when it is to be carried out and shall endorse the time so appointed on the said order, and shall in all cases cause the order to be carried into effect by issuing a warrant or taking such other steps as may be necessary;

the Ruler of the State acting in accordance with Article 42 of the Constitution may order a respite of the execution of the warrant and afterwards appoint some other time or other place for its execution;

the warrant shall be directed to the officer in charge of the prison for the district where the sentence is to be carried into effect, who shall carry the sentence into effect, in accordance with law;

- (e) (i) there shall be present at the execution of the sentence the Medical Officer in charge of the prison, the Superintendent of Prisons, the Officer-in-Charge of the prison and such other officers of the prison as the latter may require, and there may also be present any Minister of Religion in attendance at the prison and such relations of the prisoner or other persons as the Superintendent thinks proper to admit;
- (ii) as soon as may be after judgment of death has been executed the Medical Officer shall examine the body of the person executed and shall ascertain the fact of death and shall sign a certificate thereof and deliver the same to the Officer-in-Charge;

- (iii) a Magistrate of the district shall, within twenty-four hours after the execution, hold an inquiry and satisfy himself of the identity of the body and whether judgment of death was duly executed thereon, and he shall make a report of it to the Menteri Besar of the State;
- (f) when a sentence of death is avoided by the escape of the person sentenced to death, execution of the sentence shall be carried into effect at such other time after his recapture as the Court shall order;
- (g) no omission or error as to time and place and no defect in form in any order or warrant given under this section and no omission to comply with the provisions of paragraph (e) shall be held to render illegal any execution carried into effect under the order or warrant, or intended so to have been carried into effect, or shall render any execution illegal which would otherwise have been legal.

Provisions as to execution of sentences of imprisonment

282. With regard to sentences of imprisonment the following provisions shall be followed:

- (a) where the accused is sentenced to imprisonment the Court passing the sentence shall immediately forward a warrant to the prison in which he is to be confined and, unless the accused is already confined in that prison, shall forward him in the custody of the police to that prison with the warrant;
- (b) every warrant for the execution of a sentence of imprisonment shall be directed to the Officer-in-Charge of the prison or other place in which the prisoner is or is to be confined;
- (c) when the prisoner is to be confined in a prison the warrant shall be lodged with the Officer-in-Charge of the prison;

- (d) every sentence of imprisonment shall take effect from the date on which it was passed unless the Court passing the sentence otherwise directs.

Provisions as to sentences of fine

283. (1) Where any fine is imposed under the authority of any law for the time being in force, then, in the absence of any express provision relating to the fine in such law contained, the following provisions shall apply—

- (a) where no sum is expressed to which the fine may extend the amount to which the offender is liable is unlimited, but shall not be excessive;
- (b) in every case of an offence in which the offender is sentenced to pay a fine the Court passing the sentence may, in its discretion, do all or any of the following things:
 - (i) allow time for the payment of the fine;
 - (ii) direct payment of the fine to be made by instalments;
 - (iii) issue a warrant for the levy of the amount by distress and sale of any property belonging to the offender;
 - (iv) direct that in default of payment of the fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may be sentenced or to which he may be liable under a commutation of sentence:

Provided that where time is not allowed for the payment of a fine an order for imprisonment in default of payment shall not be issued in the first instance unless it appears to the Court that the

person has no property or insufficient property to satisfy the fine payable or that the levy of distress will be more injurious to him or his family than imprisonment;

- (v) direct that the person to be searched and that any money found on him when so searched or which, in the event of his being committed to prison, may be found on him when taken to prison, shall be applied towards the payment of such fine, the surplus, if any, being returned to him:

Provided that the money shall not be so applied if the Court is satisfied that the money does not belong to the person on whom it was found or that the loss of the money will be more injurious to him than his imprisonment;

- (c) the period for which the Court directs the offender to be imprisoned in default of payment of fine shall not exceed the following scale:

- (i) if the offence is punishable with imprisonment:

<i>Where the maximum term of imprisonment—</i>	<i>The period shall not exceed—</i>
does not exceed six months	the maximum term of imprisonment
exceeds six months but does not exceed one year	six months
exceeds one year but does not exceed two years	one year
exceeds two years	half of the maximum term of imprisonment

(ii) if the offence is not punishable with imprisonment:

<i>Where the fine</i>	<i>The period shall not exceed—</i>
does not exceed five hundred ringgit	one month
exceeding five hundred ringgit but does not exceed one thousand ringgit	six months
exceeding one thousand ringgit but does not exceed five thousand ringgit	one year
exceeds five thousand ringgit	three years

(d) (Omitted);

(e) the imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law;

(f) if, before the expiration of the time of imprisonment fixed in default of payment, such a proportion of the fine is paid or levied that the time of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate;

(g) the fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if under the sentence the offender is liable to imprisonment for a longer period than six years then at any time previous to the expiration of that period, and the death of the offender does not discharge from the liability any property which would after his death be legally liable for his debts.

(2) A warrant for the levy of a fine may be executed at any place in Malaysia, but if it is required to be executed outside the State in which it is issued it shall be endorsed for that purpose by a Judge or by a First Class Magistrate having jurisdiction in the State in which it is to be executed.

Suspension of execution in certain cases

284. When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine and the Court issues a warrant under section 283, it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties as the Court thinks fit, conditioned for his appearance before that Court on the day appointed for the return to the warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized the Court may direct the sentence of imprisonment to be carried into execution at once.

Warrant by whom issuable

285. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence or by his successor or other Judge or Magistrate acting in his place.

Place for executing sentence of whipping

286. When the accused is sentenced to whipping only the sentence shall be executed at such place and time as the Court may direct.

Time of executing such sentence

287. (1) When the accused is sentenced to whipping in addition to imprisonment the whipping shall not be inflicted until after the expiration of seven days from the date of the sentence or, if the imprisonment extends to fourteen days until after the expiration of

fourteen days from the date of the sentence, or if an appeal is made within that time until the sentence is confirmed by the appellate court.

(2) The whipping shall be inflicted as soon as practicable after the expiration of the seven days or the fourteen days, as the case may be, or in case of an appeal as soon as practicable after the receipt of the order of the appellate court confirming the sentence.

Mode of executing such sentence

288. (1) When the accused is sentenced to whipping the number of strokes shall be specified in the sentence. In no case shall the whipping exceed twenty-four strokes in the case of an adult or ten strokes in the case of a youthful offender, anything in any written law to the contrary notwithstanding.

(2) Whipping shall be inflicted on such part of the person as the Minister charged with responsibility for public order from time to time generally directs.

(3) The rattan used for whipping shall be not more than half an inch in diameter.

(4) In the case of an accused sentenced to whipping for an offence under section 403, 404, 406, 407, 408, 409 or 420 of the Penal Code, or a youthful offender, whipping shall be inflicted in the way of school discipline with a light rattan.

(5) When a person is convicted at one trial of any two or more distinct offences any two or more of which are legally punishable by whipping, the combined sentences of whipping awarded by the Court for any such offences shall not, anything in any written law to the contrary notwithstanding, exceed a total number of twenty-four strokes in the case of adults and ten strokes in the case of youthful offenders.

Sentence of whipping forbidden in certain cases

289. No sentence of whipping shall be executed by instalments, and none of the following persons shall be punishable with whipping:

- (a) females;
- (b) males sentenced to death;
- (c) males whom the Court considers to be more than fifty years of age, except males sentenced to whipping under section 376, 377C, 377CA or 377E of the Penal Code.

Medical Officer's certificate required

290. (1) The punishment of whipping shall not be inflicted unless a Medical Officer is present and certifies that the offender is in a fit state of health to undergo such punishment.

(2) If, during the execution of a sentence of whipping, a Medical Officer certifies that the offender is not in a fit state of health to undergo the remainder of the sentence the whipping shall be finally stopped.

(3) Where whipping is inflicted under section 293 a Medical Officer need not be present, but such whipping shall not be inflicted unless it appears to the Court that the offender is in a fit state of health to undergo the same.

Procedure if whipping cannot be inflicted

291. (1) In any case in which under section 290 a sentence of whipping is wholly or partially prevented from being executed the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may in its discretion either remit the sentence or sentence the offender instead of whipping, or instead of so much of the sentence of whipping as was not executed, to imprisonment for a term which may extend to twenty-four months,

which may be in addition to any other punishment to which he has been sentenced for the same offence.

(2) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law or which the said Court is competent to inflict.

Commencement of sentence of imprisonment on prisoner already undergoing imprisonment

292. (1) When a person who is an escaped convict or is undergoing a sentence of imprisonment is sentenced to imprisonment, such imprisonment shall commence either immediately or at the expiration of the imprisonment to which he has been previously sentenced, as the Court awarding the sentence may direct.

(2) A sentence of death shall be executed notwithstanding the pendency of any sentence of imprisonment.

(3) Nothing in subsection (1) shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

Youthful offenders

293. (1) When any youthful offender is convicted before any Criminal Court of any offence punishable by fine or imprisonment, the Court may, instead of awarding any term of imprisonment in default of payment of the fine or passing a sentence of imprisonment—

(a) order the offender to be discharged after due admonition if the Court shall think fit;

(b) order the offender to be delivered to his parent or to his guardian or nearest adult relative or to such other person as the Court shall designate on such parent, guardian, relative or other person executing a bond with or without surety or sureties, as the Court may require, that he will be

responsible for the good behaviour of the offender for any period not exceeding twelve months or without requiring any person to enter into any bond make an order in respect of the offender ordering him to be of good behaviour for any period not exceeding two years and containing any directions to that offender in the nature of the conditions referred to in paragraphs 294A(a), (b) and (c) which the Court shall think fit to give;

- (c) order the offender, if a male, to be whipped with not more than ten strokes of a light cane or rattan within the Court premises and in the presence, if he desires to be present, of the parent or guardian of that offender;
- (d) deal with the offender in the manner provided by the Child Act 2001 [Act 611]; or
- (e)
 - (i) to make an order requiring the offender to perform community service, not exceeding 240 hours in aggregate, of such nature and at such time and place and subject to such conditions as may be specified by the Court;
 - (ii) in this paragraph, “community service” means any work, service or course of instruction for the betterment of the public at large and includes, any work performed which involves payment to the prison or local authority; and
 - (iii) the community service under this paragraph shall be under the Minister charged with the responsibility for women, family and community.

(2) (*Deleted by Act A1274*).

(3) When any order has been made under paragraph (1)(b) and the Court has reason to believe that the behaviour of the offender during the period specified in the order is not good or that the offender has not complied with any direction included in the order the Court may issue a notice addressed to the offender and to the parent, guardian, relative

or other person to whom the offender has been delivered or under whose supervision the offender has been ordered to remain to show cause why that offender should not be dealt with under paragraph (1)(d) and if cause is not shown to the satisfaction of the Court, the Court may cancel the order made under the said paragraph (1)(b) and substitute for it as from the date of the cancellation an order under the Child Act 2001, and may if necessary issue a warrant for the apprehension of that offender so that effect may be given to the order.

First offenders

294. (1) When any person has been convicted of any offence before any Court if it appears to the Court that regard being had to the character, antecedents, age, health or mental condition of the offender or to the trivial nature of the offence or to any extenuating circumstances under which the offence was committed it is expedient that the offender be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties and during such period as the Court may direct to appear and receive judgment if and when called upon and in the meantime to keep the peace and be of good behaviour.

(2) The Court may, if it thinks fit, direct that the offender shall pay the costs of the prosecution or some portion of the same within that period and by such instalments as may be directed by the Court.

Section 432 shall be applicable to any direction made under this subsection.

(3) If a Court having power to deal with the offender in respect of his original offence, or any Court of summary jurisdiction, is satisfied by information on oath that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his apprehension.

(4) Any offender when apprehended on any such warrant shall, if not immediately brought before the Court having power to sentence him, be brought before a Magistrate, and the Magistrate may either

remand him by warrant until the time at which he is required by his bond to appear for judgment or until the sitting of a Court having power to deal with his original offence, or may admit him to bail with a sufficient surety conditioned on his appearing for judgment.

(5) The offender, when so remanded, may be committed to prison and the warrant of remand shall order that he be brought before the Court before which he was bound to appear for judgment or to answer as to his conduct since his release.

(6) This section shall not apply—

(a) if the offender is charged with a serious offence; or

(b) if the offender is charged with the commission of an act of domestic violence as defined under section 2 of the Domestic Violence Act 1994.

Conditions of bonds

294A. When any person is required by any Court to execute a bond with or without sureties and in such bond the person executing it binds himself to keep the peace or binds himself to be of good behaviour the Court may require that there be included in the bond one or more of the following conditions namely:

(a) a condition that the person shall remain under the supervision of some other person named in the bond during such period as may be specified in it;

(b) such conditions for securing the supervision as the Court may think it desirable to impose;

(c) such conditions with respect to residence, employment, associations, abstention from intoxicating liquors or with respect to any other matter whatsoever as the Court may think it desirable to impose.

Sentence of police supervision

295. (1) When a person having previously been convicted of an offence punishable with imprisonment for a term of two years or upwards is convicted of any other offence also punishable with imprisonment for a term of two years or upwards—

(a) the High Court or a Sessions Court may direct that he be subject to the supervision of the police for a period of not more than three years commencing immediately after the expiration of the sentence passed on him for the last of such offences;

(b) a Magistrate's Court may direct that he be subject to the supervision of the police for a period of not more than one year commencing immediately after the expiration of the sentence passed on him for the last of such offences.

(1A) When a person is convicted of an offence under section 376, 377C, 377CA or 377E of the Penal Code before any Court, whether or not he has previously been convicted of any offence, the Court shall direct that he be subject to the supervision of the police for a period of not less than one year and not more than three years commencing immediately after the expiration of the sentence passed on him.

(2) When any person subject to the supervision of the police is, while still subject to such supervision, sentenced to a term of imprisonment within Malaysia any term spent in prison shall be excluded from the period of supervision.

Rehabilitative counseling

295A. (1) The Court may in addition to the order made under subsection 295(1A) order a period of rehabilitative counseling for the accused person within the period of his detention.

(2) The rehabilitative counseling shall be under the Minister charged with the responsibility for prisons.

Obligations of persons subject to supervision

296. (1) Every person subject to the supervision of the police who is at large within Malaysia shall—

- (a) notify the place of his residence to the officer in charge of the police district in which his residence is situated;
- (b) whenever he changes his residence within the same police district notify such change of residence to the officer in charge of the police district;
- (c) whenever he changes his residence from one police district to another notify such change of residence to the officer in charge of the police district which he is leaving and to the officer in charge of the police district into which he goes to reside;
- (d) whenever he changes his residence to a place beyond the limits of Malaysia notify such change of residence and the place to which he is going to reside to the officer in charge of the police district which he is leaving;
- (e) if having changed his residence to a place beyond the limits of Malaysia he subsequently returns to Malaysia notify such return and his place of residence in Malaysia to the officer in charge of the police district in which his residence is situated.

(2) Every person subject to the supervision of the police, if a male, shall once in each month report himself at such time as is prescribed by the Chief Police Officer of the State in which he resides either to the Chief Police Officer himself or to such other person as that officer directs, and the Chief Police Officer or other person may upon each occasion of such report being made take or cause to be taken the finger prints of the person so reporting.

Penalty for non-compliance with section 296

297. If any person subject to the supervision of the police who is at large within Malaysia—

- (a) remains in any place for forty-eight hours without notifying the place of his residence to the officer in charge of the police district in which the place is situated;
- (b) fails to comply with the requisitions of section 296 on the occasion of any change of residence;
- (c) fails to comply with the requisitions of section 296 as to reporting himself once in each month,

he shall in every such case unless he proves to the satisfaction of the Court before which he is tried that he did his best to act in conformity with the law be liable to imprisonment for one year.

298. (*Deleted by Act A1274*).

Return of warrant

299. When a sentence has been fully executed the officer executing it shall return the warrant to the Court from which it issued with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXVIII

SUSPENSIONS, REMISSIONS AND COMMUTATIONS
OF SENTENCES

Power to suspend or remit sentence

300. (1) When any person has been sentenced to punishment for an offence the Ruler of the State, acting in accordance with Article 42 of the Constitution, in which the offence was committed or in which the

conviction was had may at any time, without conditions, or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to a Ruler for the suspension or remission of a sentence the Ruler may require the convicting Judge or Magistrate to state his opinion as to whether the application should be granted or refused and the Judge or Magistrate shall state his opinion accordingly.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the Ruler by whom it was granted, not fulfilled, the Ruler may cancel the suspension or remission; whereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer without warrant and remanded by a Magistrate to undergo the unexpired portion of the sentence.

(4) Nothing herein contained shall be deemed to interfere with the right of the Ruler of any State to grant pardons, reprieves, respites or remissions of punishment.

Power to commute punishment

301. The Ruler of the State, acting in accordance with Article 42 of the Constitution, in which the offence was committed may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it:

- (a) death;
- (b) imprisonment;
- (c) fine.

CHAPTER XXIX

PREVIOUS ACQUITTALS OR CONVICTIONS

Person once convicted or acquitted not to be tried again for same offence

302. (1) A person who has been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of that offence shall, while the conviction or acquittal remains in force, not be liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 166 or for which he might have been convicted under section 167.

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under subsection 165(1).

(3) A person convicted of any offence constituted by any act causing consequences which, together with that act, constituted a different offence from that of which he was convicted, may be afterwards tried for that last-mentioned offence, if the consequences had not happened or were not known to the Court to have happened at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding the acquittal or conviction, be subsequently charged with and tried for any other offence constituted by the same acts which he may have committed, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

ILLUSTRATIONS

(a) *A* is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged upon the same facts with theft as a servant, or with theft simply, or with criminal breach of trust.

(b) *A* is tried upon a charge of murder and acquitted. There is no charge of robbery but it appears from the facts that *A* committed robbery at the time when the murder was committed; he may afterwards be charged with and tried for robbery.

(c) *A* is tried for causing grievous hurt and convicted. The person injured afterwards dies. *A* may be tried again for culpable homicide.

(d) *A* is tried and convicted of the culpable homicide of *B*. *A* may not afterwards be tried on the same facts for the murder of *B*.

(e) *A* is charged and convicted of voluntarily causing hurt to *B*. *A* may not afterwards be tried for voluntarily causing grievous hurt to *B* on the same facts unless the case comes within subsection (3) of this section.

Plea of previous acquittal or conviction

303. (1) The plea of a previous acquittal or conviction may be pleaded either orally or in writing, and may be in the following form or to the following effect—

The defendant says that by virtue of section 302 of the Criminal Procedure Code he is not liable to be tried.

(2) Such plea may be pleaded together with any other plea, but the issue raised by the plea shall be tried and disposed of before the issues raised by the other pleas are tried.

(3) On the trial in the High Court of an issue on a plea of a previous acquittal or conviction the depositions transmitted to the Court on the former trial, together with the notes of the Judge if available, and the depositions transmitted to the Court on the subsequent charge, shall be admissible in evidence to prove or disprove the identity of the charges.

PART VII

APPEAL AND REVISION

CHAPTER XXX

APPEALS TO THE HIGH COURT

Appeals from Sessions Courts

303A. Any reference in this Chapter to a Magistrate and a Magistrate's Court shall be deemed to include a reference to a Sessions Court Judge, or a Sessions Court, as the case may be; and the expressions "Magistrate" and "Magistrate's Court" shall be construed accordingly.

Cases in which no appeal lies

304. No appeal shall lie from a judgment, sentence or order of a Magistrate in the case of any offence punishable with fine only not exceeding twenty-five ringgit.

When plea of guilty limited right of appeal

305. When an accused person has pleaded guilty and been convicted by a Magistrate on that plea, there shall be no appeal except as to the extent or legality of the sentence.

Appeal against acquittal

306. When an accused person has been acquitted by a Magistrate there shall be no appeal except by, or with the sanction in writing of, the Public Prosecutor.

Procedure for appeal

307. (1) Except in any case to which section 304 applies and subject to sections 305 and 306 any person who is dissatisfied with any judgment, sentence or order pronounced by any Magistrate's Court in a criminal case or matter to which he is a party may prefer an appeal to the High Court against that judgment, sentence or order in respect of any error in law or in fact or on the ground of the alleged excessive severity or of the alleged inadequacy of any sentence by lodging, within fourteen days from the time of the judgment, sentence or order being passed or made, with the clerk of the Magistrate's Court a notice of appeal in triplicate addressed to the High Court and by paying at the same time the prescribed appeal fee.

(2) Every notice of appeal shall contain an address at which any notices or documents connected with the appeal may be served upon the appellant or upon his advocate.

(3) When a notice of appeal has been lodged the Court appealed from shall make a signed copy of the grounds of decision in the case and cause it to be served upon the appellant or his advocate by leaving the said copy at the address mentioned in the notice of appeal or by posting it by registered post addressed to the appellant at the said address.

(4) Within fourteen days after the copy of the grounds of decision has been served as provided in subsection (3), the appellant shall lodge with the clerk of the Magistrate's Court at which the trial was held a petition of appeal in triplicate addressed to the High Court.

(5) If the appellant within the period provided in subsection (1) for lodging his notice of appeal has applied for a copy of the notes of the evidence recorded by the Magistrate at his trial he shall lodge his petition of appeal as provided in subsection (4)—

(a) within the period provided by such subsection; or

- (b) within a period of fourteen days from the date when a notice is left at his address for service specified in subsection (2) that a copy of the notes of evidence can be had free of charge,

whichever period shall be the longer.

(6) Every petition of appeal shall state shortly the substance of the judgment appealed against and shall contain definite particulars of the points of law or of fact in regard to which the Court appealed from is alleged to have erred.

(7) (a) If the appellant is in prison he shall be deemed to have complied with the requirements of this section if he gives to the officer in charge of the prison either orally or in writing notice of appeal and the particulars required to be included in the petition of appeal within the times prescribed by this section and pays the prescribed appeal fee.

(b) Such officer shall immediately forward the notice and petition or the purport thereof together with the appeal fee to the clerk of the Magistrate's Court at which the trial was held.

(8) In the case of an appeal by the Public Prosecutor no fee shall be payable.

(9) If a petition of appeal is not lodged within the time prescribed by this section the appeal shall be deemed to have been withdrawn and the trial Court shall enforce its sentence or order if any stay of execution has been granted, but nothing herein contained shall be deemed to limit or restrict the powers conferred upon a Judge by section 310.

Transmission of appeal record

308. When the appellant has complied with section 307 the Court appealed from shall transmit to the High Court and to the Public Prosecutor and to the advocate for the appellant a signed copy of the record of the proceedings and of the grounds of the decision together with a copy of the notice and of the petition of appeal.

309. *(Deleted by Act 25 of 1967).*

Appeal specially allowed in certain cases

310. A Judge may, on the application of any person desirous of appealing who may be debarred from so doing upon the ground of his not having observed some formality or some requirement of this Code, permit an appeal upon such terms and with such directions to the Magistrate and to the parties as the Judge shall consider desirable, in order that substantial justice may be done in the matter.

Stay of execution pending appeal

311. Except in the case of a sentence of whipping (the execution of which shall be stayed pending appeal), no appeal shall operate as a stay of execution, but the Court below or a Judge may stay execution on any judgment, order, conviction or sentence pending appeal, on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in the judgment, order, conviction or sentence as to the Court below or to the Judge may seem reasonable.

Setting down appeal on list

312. (1) If the Judge does not reject the appeal summarily he shall hand the documents mentioned in section 308 to the Registrar, who shall number the appeal and enter it on the list of appeals to be heard and give notice to the parties that the appeal has been so entered.

(2) As soon as a date has been fixed the Registrar shall give to the parties notice of the date of hearing of the appeal.

(3) In any case a Judge may, of his own motion or on the application of a party concerned and with reasonable notice to the parties, accelerate or postpone the hearing of an appeal.

Procedure at hearing

313. (1) When the appeal comes on for hearing the appellant, if present, shall be first heard in support of the appeal, the respondent, if present, shall be heard against it, and the appellant shall be entitled to reply.

(2) If the appellant does not appear to support his appeal the Court may consider his appeal and may make such order thereon as it thinks fit:

Provided that the Court may refuse to consider the appeal or to make any such order in the case of an appellant who is out of the jurisdiction or who does not appear personally before the Court in pursuance of a condition upon which he was admitted to bail, except on such terms as it thinks fit to impose.

Non-appearance of respondent

314. (1) If, at the hearing of the appeal, the respondent is not present and the Court is not satisfied that the notice of appeal was duly served upon him, then the Court shall not make any order in the matter of the appeal adverse to or to the prejudice of the respondent, but shall adjourn the hearing of the appeal to a future day for his appearance, and shall issue the requisite notice to him for service through the Registrar.

(2) If the service of the last-mentioned notice cannot be effected on the respondent the Court shall proceed to hear the appeal in his absence.

Arrest of respondent in certain cases

315. When an appeal is presented against an acquittal a Judge may issue a warrant directing that the accused be arrested and brought before him, and may commit him to prison pending the disposal of the appeal or admit him to bail.

Decision on appeal

316. At the hearing of the appeal the Judge may, if he considers there is no sufficient ground for interfering, dismiss the appeal, or may—

- (a) in an appeal from an order of acquittal, reverse the order, and direct that further inquiry be made, or that the accused be re-tried, as the case may be, or find him guilty and pass sentence on him according to law;
- (b) in an appeal from a conviction or in an appeal as to sentence—
 - (i) reverse the finding and sentence and acquit or discharge the accused, or order him to be retried; or
 - (ii) alter the finding, maintaining the sentence, or with or without altering the finding reduce or enhance the sentence or alter the nature of the sentence;
- (c) in an appeal from any other order, alter or reverse such order.

Order to take further evidence

317. (1) In dealing with any appeal under this Chapter a Judge, if he thinks additional evidence to be necessary, may either take such evidence himself or direct it to be taken by a Magistrate.

(2) When the additional evidence is taken by a Magistrate he shall certify that evidence to the High Court who shall then, as soon as may be, proceed to dispose of the appeal.

(3) Unless the Judge otherwise directs, the accused or his advocate shall be present when the additional evidence is taken.

(4) The taking of evidence under this section shall, for the purposes of Chapter XXV, be deemed to be an inquiry.

Judgment

318. On the termination of the hearing of the appeal the Judge shall, either at once or on some future day which shall either then be appointed for the purpose or of which notice shall subsequently be given to the parties, deliver judgment in open court.

Certificate and consequence of judgment

319. (1) Whenever a case is decided on appeal by a Judge under this Chapter he shall certify his judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed.

(2) Whenever an appeal is not dismissed such certificate shall state the grounds upon which the appeal was allowed or the decision of the Magistrate's Court was varied.

(3) The Court to which a Judge certifies his judgment or order shall thereupon make such orders as are conformable to the judgment or order of the Judge and, if necessary, the record shall be amended in accordance therewith.

Death of parties to appeal

320. Every appeal under section 306 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal against a sentence of fine) shall finally abate on the death of the appellant.

321. *(Deleted by Act 25 of 1967).*

Costs

322. (1) Subject to the following subsections, in all proceedings under this and the following Chapter a Judge shall have power to award

such costs as he may deem fit to be paid by the complainant to the accused or by the accused to the complainant:

Provided that no costs whatsoever shall be awarded in any proceedings brought against an order of acquittal.

(2) Such costs shall be assessed by the Judge at the time when he gives his decision.

(3) No costs shall in any case be awarded either against or in favour of the Public Prosecutor.

CHAPTER XXXI

REVISION

Power to call for records of subordinate Courts

323. (1) A Judge may call for and examine the record of any proceeding before any subordinate Criminal Court for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of that subordinate Court.

(2) Orders made under sections 97 and 98 are not proceedings within the meaning of this section.

Power to order further inquiry

324. (1) On examining any record under section 323 or otherwise, a Judge may direct the Magistrate to make, and the Magistrate shall make, further inquiry into any complaint which has been dismissed under section 135, or into the case of any accused person who has been discharged.

(2) Section 303A shall apply for the construction of subsection (1).

Powers of Judge on revision

325. (1) A Judge may, in any case the record of the proceedings of which has been called for by himself or which otherwise comes to his knowledge, in his discretion, exercise any of the powers conferred by sections 311, 315, 316 and 317 of this Code.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard, either personally or by advocate, in his own defence.

(3) Nothing in this section shall be deemed to authorize a Judge to convert a finding of acquittal into one of conviction.

Permission for parties to appear

326. No party has any right to be heard, either personally or by advocate, before a Judge when exercising his powers of revision:

Provided that the Judge may, if he thinks fit, when exercising such powers hear any party, either personally or by advocate, and that nothing in this section shall be deemed to affect subsection 325(2).

Orders on revision

327. When a case is revised under this Chapter by a Judge he shall certify his decision or order to the Court by which the finding, sentence or order revised was recorded or passed stating, where the finding, sentence or order has been varied, the grounds for such variation; and the Court to which the decision or order is so certified shall then make such orders as are conformable to the decision so certified and, if necessary, the record shall be amended in accordance therewith.

PART VIII

SPECIAL PROCEEDINGS

*CHAPTER XXXII

INQUIRIES OF DEATHS

Meaning of “cause of death”

328. In this Chapter the words “cause of death” include not only the apparent cause of death as ascertainable by inspection or post-mortem examination of the body of the deceased, but also all matters necessary to enable an opinion to be formed as to the manner in which the deceased came by his death and as to whether his death resulted in any way from, or was accelerated by, any unlawful act or omission on the part of any other person.

Duty of police officer to investigate death

329. (1) Every officer in charge of a police station on receiving information—

- (a) that a person has committed suicide;
- (b) that a person has been killed by another, or by an animal, or by machinery, or by an accident;
- (c) that a person has died under circumstances raising a reasonable suspicion that some other person has committed an offence;
- (d) that the body of a dead person has been found, and it is not known how he came by his death; or
- (e) that a person has died a sudden death,

*NOTE—Medical Officers of the Armed Forces to be regarded as Government Medical Officers, for the purpose of inquiries into deaths and evidence under the Criminal Procedure Code—*see* L.N. 198/1952.

shall with the least practical delay transmit such information to the officer in charge of the police district.

(2) On receipt of the information the officer in charge of the police district or some other police officer acting under his directions and being either the officer in charge of a police station or a police officer not below the rank of sergeant shall immediately proceed to the place where the body of the deceased person is and there shall make an investigation and draw up report of the apparent cause of death, describing the wounds, fractures, bruises and other marks of injury as may be found on the body, and such marks, objects and circumstances as, in his opinion, may relate to the cause of death or the person, if any, who caused the death, and stating in what manner or by what weapon or instrument, if any, the marks appear to have been inflicted.

(3) Every police officer making an investigation under this section into the cause of any death, may exercise any or all of the special powers in relation to police investigations in seizable cases conferred on the police officer by Chapter XIII and sections 112, 113 and 114 shall apply to statements made by persons examined in the course of the investigation.

(4) The report shall be signed by the police officer by whom it was drawn up, and where the report was not drawn up by the officer in charge of the police district it shall immediately be forwarded to him.

(5) The officer in charge of the police district shall immediately forward that report to the Magistrate within the local limits of whose jurisdiction the body of the deceased was found.

(6) When the information given under subsection (1) is of such a nature that, though it affords reasonable ground for believing that a death has occurred, it is unlikely that the body of such deceased person can be found owing to its destruction by fire or otherwise or to the fact that the body is lying in a place from which it cannot be recovered, the officer referred to in subsection (2) shall nevertheless make an investigation and draw up a report, and forward the report to the nearest Magistrate who shall proceed in reference to the report as in the case of a report forwarded under subsection (5).

Duty of officer to arrange for post-mortem examination in certain cases

330. Every officer making an investigation under section 329 shall if there appears to him any reason to suspect that the deceased came by his death in a sudden or unnatural manner or by violence or that his death resulted in any way from or was accelerated by any unlawful act or omission on the part of any other person, at once inform the nearest *Government Medical Officer and, unless it appears to him that the body should be viewed by a Magistrate *in situ*, shall take or send the body to the nearest Government hospital or other convenient place for the holding of a post-mortem examination of the body by a Government Medical Officer:

Provided that if that officer is satisfied as to the cause of death and that the deceased came by his death by accident he may order the body to be buried immediately.

Post-mortem examination of body

331. (1) Upon receiving the information referred to in section 330 a Government Medical Officer shall, as soon as practicable, make a post-mortem examination of the body of the deceased.

(2) The Medical Officer, if it is necessary in order to ascertain the cause of death, shall extend the examination to the dissection of the body and an analysis of any portion of it, and may cause any portion of it to be transmitted to the Institute for Medical Research.

Report of Government Medical Officer

332. (1) The Medical Officer making any such examination shall draw up a report of the appearance of the body and of the conclusions which he draws from it, and shall certify as to the cause of death and shall date and sign the report and transmit it to the officer in charge of

*NOTE—Medical Officers of the Armed Forces to be regarded as Government Medical Officers, for the purpose of inquiries into deaths and evidence under the Criminal Procedure Code—see L.N. 198/1952.

the police district who shall attach it to the report forwarded under subsection 329(5).

(2) The report of the Medical Officer and also the report of an officer of the Institute for Medical Research on anything transmitted to him under subsection 331(2) shall be admissible as evidence and shall be *prima facie* evidence of the facts stated in it at any inquiry held under this Chapter.

Duty of Magistrate on receipt of report

333. (1) If the Magistrate shall be satisfied as to the cause of death without holding an inquiry under this Chapter, he shall report to the Public Prosecutor the cause of death as ascertained to his satisfaction with his reasons for being so satisfied and shall at the same time transmit to the Public Prosecutor all reports and documents in his possession connected with the matter.

(2) In all other cases the Magistrate shall proceed as soon as may be to hold an inquiry under this Chapter.

(3) It shall not be necessary for the Magistrate to hold any inquiry under this Chapter or to make any report under subsection (1) if any criminal proceedings have been instituted against any person in respect of any act connected with the death of the deceased or such hurt as caused the death.

Inquiry into cause of death of a person in custody of police or in any asylum

334. When any person dies while in the custody of the police or in a psychiatric hospital or prison, the officer who had the custody of that person or was in charge of that psychiatric hospital or prison, as the case may be, shall immediately give intimation of such death to the nearest Magistrate, and the Magistrate or some other Magistrate shall, in the case of a death in the custody of the police, and in other cases may, if he thinks expedient, hold an inquiry into the cause of death.

Powers of Magistrate

335. (1) A Magistrate holding an inquiry under this Chapter shall have all the powers which he would have in holding an inquiry into an offence.

(2) A Magistrate holding an inquiry under this Chapter if he considers it expedient that the body of the deceased person should be examined by a Medical Officer in order to discover the cause of death may, whether a post-mortem examination has been made under section 331 or not, issue his order to a Medical Officer to make a post-mortem examination of the body, and may for that purpose order the body to be exhumed.

Magistrate may view body

336. It shall not be necessary for a Magistrate holding an inquiry to view the body of the deceased, but the Magistrate may if he considers it expedient view the body, and may for that purpose cause the body to be exhumed.

Inquiries to be made by Magistrate

337. A Magistrate holding an inquiry shall inquire when, where, how and after what manner the deceased came by his death and also whether any person is criminally concerned in the cause of the death.

Evidence and finding to be recorded

338. (1) The Magistrate holding an inquiry under this Chapter shall record the evidence and his finding thereon and shall immediately transmit to the Public Prosecutor the original of such evidence and finding duly authenticated by his signature or a copy of such evidence and finding certified under his hand as correct.

(2) The place in which any inquiry of death under this Chapter is held shall be a place open to the public. But a Magistrate conducting an inquiry of death may, on special grounds of public policy or

expediency, in his discretion, exclude the public or any person or persons in particular at any stage of the inquiry from the place in which the inquiry is being held.

Power of Public Prosecutor to require inquiry to be held

339. (1) The Public Prosecutor may at any time direct a Magistrate to hold an inquiry under this Chapter into the cause of, and the circumstances connected with, any death such as is referred to in sections 329 and 334, and the Magistrate to whom such direction is given shall then proceed to hold an inquiry and shall record his finding as to the cause of death and also as to any of the circumstances connected with it with regard to which the Public Prosecutor may have directed him to make inquiry.

(2) When the proceedings at any inquiry under this Chapter have been closed and it appears to the Public Prosecutor that further investigation is necessary, the Public Prosecutor may direct the Magistrate to reopen the inquiry and to make further investigation, and thereupon the Magistrate shall have full power to reopen the inquiry and make further investigation and thereafter to proceed in the same manner as if the proceedings at the inquiry had not been closed:

Provided that this subsection shall not apply to any inquiry at which a finding of murder or culpable homicide not amounting to murder has been returned against any person.

(3) When giving any direction under this section the Public Prosecutor may also direct whether the body shall or shall not be exhumed.

(4) All directions given under this section shall be complied with by the Magistrate to whom they are addressed without unnecessary delay.

Admissibility of medical report in certain cases

340. (1) Where on the trial of any person charged with culpable homicide amounting to murder or culpable homicide not amounting to murder it is proved that the Medical Officer who made the post-

mortem examination of the body of the deceased person is dead or is absent from Malaysia, it shall be lawful to receive any report of that Medical Officer made under the provisions of this Code as evidence with regard to the appearances of the body when examined by that Medical Officer and as regards the cause of death.

(2) Such evidence shall be subject to such deduction from its weight as the Court deems proper to make by reason of that report not having been made upon oath and the accused person not having any opportunity of cross-examination.

Custody of proceedings

341. The Public Prosecutor shall from time to time cause to be delivered to the Registrar all proceedings transmitted to him under this Chapter, and thereupon the Registrar shall take charge of those proceedings and shall keep a proper index of them.

Power to revise

341A. Chapter XXXI shall also apply to all proceedings under this Chapter.

CHAPTER XXXIII

PERSONS OF UNSOUND MIND

Procedure where accused is suspected to be of unsound mind

342. (1) When a Judge or a Magistrate holding a trial has reason to suspect that the accused person is of unsound mind and consequently incapable of making his defence, he shall in the first instance investigate the fact of such unsoundness.

(2) At the investigation it shall not be necessary for the accused person to be present and the Judge or Magistrate may receive as

evidence a certificate in writing signed by a Medical Officer to the effect that the accused person is in his opinion of unsound mind or is a proper person to be detained for observation in a psychiatric hospital, or the Judge or Magistrate may, if he sees fit take oral evidence from a Medical Officer on the state of mind of the accused person.

(3) If not satisfied that the person is capable of making his defence, the Judge or Magistrate shall postpone the trial and shall remand that person for a period not exceeding one month to be detained for observation in any psychiatric hospital in Malaysia.

(4) The Medical Director of the said psychiatric hospital shall keep that person under observation during the period of his remand and before the expiry of that period shall certify under his hand to the Court his opinion as to the state of mind of that person, and if he is unable within the period to form any definite conclusion, shall so certify to the Court and shall ask for a further remand. Such further remand may extend to a period of two months.

(5) The Public Prosecutor may at any stage of any proceedings prior to the trial order that any accused person whom he suspects to be of unsound mind be sent to a psychiatric hospital for observation for a period not exceeding one month. The Medical Director of that mental hospital shall keep that person under observation during the said period and before the expiry of the said period shall certify under his hand to the Public Prosecutor his opinion as to the state of mind of that person. If the said Medical Superintendent is unable within the said period to form any definite conclusion he shall so certify to the Public Prosecutor, and the Public Prosecutor may order that person to be detained in that psychiatric hospital for a further period not exceeding two months. The Medical Director of a psychiatric hospital may, notwithstanding anything in the *Mental Health Act 2001[Act 615] contained, detain any accused person in respect of whom an order has been made under this subsection for a period not exceeding the period specified in the order.

*NOTE—Mental Disorders Ordinance 1952 [*Ord. 31/1952*] has been repealed by Mental Health Act 2001[*Act 615*], w.e.f 15 June 2010.

Certificate of Medical Director

343. (1) If the Medical Director shall certify that the accused person is of sound mind and capable of making his defence the Judge or Magistrate shall proceed with the trial.

(2) If the Medical Director shall certify that that person is of unsound mind and incapable of making his defence the Court shall, if satisfied of the fact, find accordingly, and thereupon the trial shall be postponed.

(3) The certificate of the Medical Director shall be receivable as evidence under this section.

(4) If the accused person is certified to be of unsound mind and incapable of making his defence it shall not be necessary for him to be present in Court during proceedings under this section.

Release of person of unsound mind pending investigation or trial

344. (1) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Judge or Magistrate, if the offence charged is bailable, may, in his discretion, release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Judge or Magistrate or such officer as the Judge or Magistrate appoints in that behalf.

(2) If the offence charged is not bailable or if sufficient security is not given the Judge or Magistrate shall report the case to the Yang di-Pertuan Agong in respect of the Federal Territory, the Ruler or the Yang di-Pertua Negeri of the State, as the case may be, in respect of a State in which the trial is held and *the Ruler may, in his discretion,

**NOTE*—Throughout this Chapter, references to “the Ruler” shall be construed as “the Yang di-Pertuan Agong in respect of the Federal Territory, the Ruler or the Yang di-Pertua Negeri of the State, as the case may be, in respect of a state”—*see* subparagraph 2(ii) of the Criminal Procedure Code (Amendment) Act 1976 [Act 365].

order the accused to be confined in a psychiatric hospital, and the Judge or Magistrate shall give effect to such order.

(3) Pending the order of the Ruler the accused may be committed to a Medical Director for safe custody.

Resumption of trial

345. When the accused has been released under section 344 the Court may at any time require the accused to appear or be brought before it and may again proceed under section 342.

346. (*Deleted by Act A908*).

Judgment of acquittal on ground of mental disorder

347. Whenever any person is acquitted upon the ground that at the time at which he is alleged to have committed an offence he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Safe custody of person acquitted

348. (1) Whenever the finding states that the accused person committed the act alleged, the Court before which the trial has been held shall, if that act would, but for incapacity found, have constituted an offence, order that person to be kept in safe custody in such place and manner as the Court thinks fit and shall report the case for the orders of the Ruler of the State in which the trial is held:

Provided that if the Court concerned is a Magistrate's Court, the Magistrate may in his discretion, if he considers that the offence charged is not of a serious nature and that that person can safely be released without danger of his doing injury to himself or any other person, caution and discharge him.

(2) The Ruler may order that person to be confined in a psychiatric hospital during the pleasure of the Ruler of the State.

Procedure where prisoner of unsound mind is reported able to make his defence

349. When any person is confined under section 344 in a psychiatric hospital, and the Visitors and Medical Director jointly certify that in their opinion that person is capable of making his defence, he shall be taken before a Judge or Magistrate, as the case may be, at such time as the Judge or Magistrate appoints, and the Judge or Magistrate shall proceed with the trial and the aforesaid certificate of the Visitors and Medical Director shall be receivable as evidence.

Procedure where person of unsound mind is reported fit for discharge

350. When any person is confined under section 348 in a mental hospital, and the Visitors and Medical Director thereof shall jointly certify that in their judgment that person may be safely discharged without danger of his doing injury to himself or any other person, the Ruler may thereupon order that person to be discharged from such psychiatric hospital.

Delivery of person of unsound mind to care of relative

351. (1) Whenever any relative or friend of any person confined in a psychiatric hospital under section 344 or 348 makes application that that person be delivered over to his care or custody and gives security to the satisfaction of the Ruler that that person shall be properly taken care of and shall be prevented from doing injury to himself or any other person, the Ruler may in his discretion, after consulting the Visitors and the Medical Director of that psychiatric hospital, order that person to be delivered to that relative or friend:

Provided that if the person is confined under section 344, the Ruler may further require the relative or friend to give security to the

satisfaction of the Ruler that if at any time it shall appear to the Ruler that that person is capable of making his defence, that relative or friend shall produce that person for trial.

(2) Whenever such person is so delivered it shall be on condition that he shall be produced for the inspection of such officer and at such times as the Ruler directs.

Interpretation of “psychiatric hospital” and “Visitors”

352. In this Chapter—

- (a) “psychiatric hospital” means an approved psychiatric hospital established under the Mental Health Act 2001; and
- (b) “Visitor” means the members of the Board of Visitors appointed under section 38 of the Mental Health Act 2001 and for the time being acting under section 40 of that Act.

352A. *(Deleted by Act A1132).*

CHAPTER XXXIV

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

Procedure as to offences committed in Court

353. When any such offence as is described in section 175, 178, 179, 180 or 228 of the Penal Code is committed in the view or presence of any Magistrate’s Court, whether civil or criminal, the Court may cause the offender to be detained in custody and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to a fine not exceeding fifty ringgit and in default of payment, to imprisonment for a term which may extend to two months.

Record of facts constituting the offence

354. (1) In every such case the Court shall record the facts constituting the offence, with the statement, if any, made by the offender as well as the finding and sentence.

(2) If the offence is an offence punishable under section 228 of the Penal Code the record must show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

Alternative procedure

355. If the Court, in any case, considers that a person accused of any of the offences referred to in section 353 and committed in its view or presence, may be better dealt with by ordinary process of law, the Court, after recording the facts constituting the offence and the statement of the accused as provided in section 354, may direct the accused to be prosecuted, and may require security to be given for the appearance of the accused person before a Magistrate or, if sufficient security is not given, may forward that person, under custody, to a Magistrate.

Power to remit punishment

356. When any Court has, under section 353, adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of the Court or on apology being made to its satisfaction.

Refusal to give evidence

357. If any witness before a Magistrate's Court refuses to answer such questions as are put to him or to produce any document in his possession or power which the Court requires him to produce, and does

not offer any reasonable excuse for such refusal, that Court may, for reasons to be recorded in writing, sentence him to imprisonment for any term not exceeding seven days, unless in the meantime that person consents to be examined and to answer or to produce the document. In the event of his persisting in his refusal he may be dealt with according to section 353 or 355 notwithstanding any sentence he may have undergone under this section.

Appeal

358. (1) Any person sentenced by any lower Court under this Chapter may appeal to the High Court.

(2) Chapter XXX shall, so far as they are applicable, apply to appeals under this section, and the appellate court may alter or reverse the finding or reduce, alter or reverse the sentence appealed against.

(3) Chapter XXXI shall also apply to all proceedings by a Magistrate under this Chapter.

Magistrate not to try certain offences committed before himself

359. Except as provided in sections 353 and 357 no Magistrate shall try any person for any offence referred to in section 129 when the offence is committed before himself or in contempt of his authority, or is brought under his notice as such Magistrate in the course of a judicial proceeding.

CHAPTER XXXV

MAINTENANCE OF WIVES AND CHILDREN

360–364. (*Deleted by F.M Ord. No. 36 of 1950*).

CHAPTER XXXVI

DIRECTIONS OF THE NATURE OF A *HABEAS CORPUS***Power of High Court to make certain orders**

365. The High Court may whenever it thinks fit direct—

(a) that any person who:

(i) is detained in any prison within the limits of Malaysia on a warrant of extradition whether under the Extradition Act 1992 [*Act 479*]; or

(ii) is alleged to be illegally or improperly detained in public or private custody within the limits of Malaysia,

be set at liberty;

(b) that any defendant in custody under a writ of attachment be brought before the Court to be dealt with according to law.

Form of application

366. Every application to bring up before the Court a person detained on a warrant of extradition or alleged to be illegally or improperly detained in custody shall be supported by affidavit stating where and by whom the person is detained and, so far as they are known, the facts relating to the detention, with the object of satisfying the Court that there is probable ground for supposing that the person is detained against his will and without just cause.

Affidavit, by whom signed

367. The affidavit required by section 366 shall be made by the person detained or alleged to be detained unless it be shown that by

reason of restraint or coercion or other sufficient cause he is unable to make it, in which case it shall be made by some other person.

Copy of warrant

368. When an application is made under section 366 to bring up before the Court a person in custody under a warrant to detain that person a copy of the warrant under which he is detained, obtained from and authenticated by the signature of the person in whose custody the applicant is, shall be produced to the Court, or it shall be shown by affidavit that it has been asked for and refused.

Defendant in custody under writ of attachment to be brought before Court

369. The officer in charge of a defendant in custody under a writ of attachment shall, as soon as possible after the arrest, bring the person before the Court to be dealt with according to law, and if he shall fail to do so the Court shall immediately order the said defendant to be brought before it.

Warrant to be prepared

370. In any case in which the Court shall order a person in custody to be brought before it a warrant in writing shall be prepared and signed by the Registrar and sealed with the seal of the Court.

Service of warrant

371. Such warrant shall unless otherwise ordered be delivered to the applicant or his advocate who shall cause it to be served personally upon the person to whom it is directed or otherwise as the Court shall direct.

Attendance of prisoner in criminal case

372. (1) Whenever the presence of any person detained in a prison situate within Malaysia is required in any Criminal Court, that Court may issue a warrant addressed to the officer in charge of the prison requiring the production of that person before the Court in proper custody at a time and place to be named in the warrant.

(2) The officer in charge of the prison shall cause the person named in the warrant to be brought as directed and shall provide for his safe custody during his absence from prison.

(3) Every such Court may by endorsement on such warrant require the person named in it to be brought up at any time to which the matter in which the person is required is adjourned.

(4) Every warrant shall be sealed with the seal of the Court and signed by the Registrar or Magistrate as the case may be.

Duty of officer to whom warrant is addressed

373. The officer to whom any warrant is addressed under this Chapter shall act in accordance with it and shall provide for the safe custody of the prisoner during his absence from prison for the purpose mentioned in the warrant.

Appeal

374. Any person aggrieved by any decision or direction of the High Court under this Chapter may appeal to the Federal Court within thirty days from the date of the decision or direction appealed against.

No application to banishment warrant

375. Nothing in this Chapter contained shall apply to any person detained in public custody under the provisions of any law in force for the time being relating to banishment.

PART IX

SUPPLEMENTARY PROVISIONS

CHAPTER XXXVII

THE PUBLIC PROSECUTOR

Public Prosecutor

376. (1) The Attorney General shall be the Public Prosecutor and shall have the control and direction of all criminal prosecutions and proceedings under this Code.

(1A) (*Deleted by Act A365*).

(2) The Solicitor General shall have all powers of a Deputy Public Prosecutor and shall act as Public Prosecutor in case of the absence or inability to act of the Attorney General.

(3) The Public Prosecutor may appoint fit and proper persons to be Deputy Public Prosecutors who shall be under the general control and direction of the Public Prosecutor and may exercise all or any of the rights and powers vested in or exercisable by the Public Prosecutor by or under this Code or any other written law except any rights or powers expressed to be exercisable by the Public Prosecutor personally and he may designate any of such Deputy Public Prosecutors as Senior Deputy Public Prosecutors.

(3A) The Public Prosecutor may appoint fit and proper persons to be Assistant Public Prosecutors who shall be under the general control and direction of the Public Prosecutor and, subject to such limitations or restrictions as may be specified by the Public Prosecutor, shall have all the powers of a Deputy Public Prosecutor.

(4) The rights and powers vested in or exercisable by the Public Prosecutor by subsections (3) and 68(2) shall be exercisable by the Public Prosecutor personally.

Conduct of prosecutions in Court

377. Every criminal prosecution before any Court and every inquiry before a Magistrate shall, subject to the following sections, be conducted—

- (a) by the Public Prosecutor, a Senior Deputy Public Prosecutor, a Deputy Public Prosecutor or an Assistant Public Prosecutor;
- (b) subject to the control and direction of the Public Prosecutor, by the following persons who are authorized in writing by the Public Prosecutor:
 - (1) an advocate;
 - (2) a police officer not below the rank of Inspector;
 - (3) an officer of any Government department;
 - (4) an officer of any local authority;
 - (5) an officer of any statutory authority or body; or
 - (6) any person employed or retained by any local authority or any statutory authority or body:

provided that in any district in which it may be impracticable, without an unreasonable amount of delay or expense, that such prosecutions or inquiries should be so conducted it shall be lawful for the Public Prosecutor from time to time, by notification in the *Gazette*, to direct that prosecutions may be conducted in that district by a police officer below the rank of Inspector.

No one to appear for Public Prosecutor

378. No person shall appear on behalf of the Public Prosecutor on any criminal appeal other than the Public Prosecutor, a Senior Deputy Public Prosecutor or a Deputy Public Prosecutor.

Employment of advocate

379. With the permission in writing of the Public Prosecutor an advocate may be employed on behalf of the Government to conduct any criminal prosecution or inquiry, or to appear on any criminal appeal or point of law reserved on behalf of the Public Prosecutor. The advocate shall be paid out of the public funds such remuneration as may be sanctioned by the Minister of Finance and while conducting such prosecution or inquiry, or appearing on such criminal appeal or point of law reserved, shall be deemed to be a “public servant”.

Prosecution by private persons

380. Notwithstanding anything in this Chapter contained, any private person may appear in person or by advocate and prosecute for an offence against his own person or property in a non-seizable case in the Court of a Magistrate.

Sections 377 and 380 to prevail over other laws

380A. Sections 377 and 380 shall prevail notwithstanding any inconsistency with any other written law.

381–386. (*Deleted by Act A908*).

CHAPTER XXXVIII

BAIL

When person may be released on bail

387. (1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by a police officer or appears or is brought before a Court and is prepared at any time while in the custody of the officer or at any stage of the proceedings before the Court to give bail, that person shall be released

on bail by any police officer in charge of a police station or by any police officer not under the rank of Corporal or by that Court.

(2) The police officer or the Court, if he or it thinks fit, may instead of taking bail from that person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

When person accused of non-bailable offence may be released on bail

388. (1) When any person accused of any non-bailable offence is arrested or detained without warrant by a police officer or appears or is brought before a Court, he may be released on bail by the officer in charge of the police district or by that Court, but he shall not be so released if there appears reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life:

Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are no reasonable grounds for believing that the accused has committed a non-bailable offence, but there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of that officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) An officer or a Court releasing any person on bail under subsection (1) or (2) shall record in writing the reasons for so doing.

(4) If at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of the offence, it shall release the accused, if he is

in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

(5) Any Court may at any subsequent stage of any proceeding under this Code cause any person who has been released under this section to be arrested and may commit him to custody.

Electronic monitoring requirement for person released on bail

388A. (1) Where a Court has decided to release a person on bail under section 387 or 388, the Court may, on its own discretion, order for an electronic monitoring device to be attached to the person.

(2) The Court may, with due regard to the nature of the offence and the circumstances of the case as being sufficient to secure the person's attendance at his trial, order for an electronic monitoring device to be attached to the person in lieu of the execution of a bond.

(3) The Court shall, before ordering a person to be attached with an electronic monitoring device under subsection (1), give the person and the Public Prosecutor an opportunity to be heard.

(4) The Court shall not make an order for a person to be attached with an electronic monitoring device under subsection (1) if there is a person (other than the person to be monitored) without whose co-operation it will not be practicable to secure the monitoring.

(5) Notwithstanding subsection (1), the Public Prosecutor may apply to the Court for any person to be so released on bail to be attached with an electronic monitoring device.

(6) Where the Public Prosecutor has made an application under subsection (5), the Court shall, with due regard to the nature of the offence and the circumstances of the case, order for the person to be so attached with an electronic monitoring device in lieu of the execution of a bond.

(7) Any person ordered to be attached with an electronic monitoring device under subsection (6) shall sign Form 55 of the Second Schedule and deposit the Form with the Court.

Amount of bond

389. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case as being sufficient to secure the attendance of the person arrested, but shall not be excessive; and a Judge may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail or that the bail required by a police officer or Court be reduced or increased.

Bond to be executed

390. (1) Before any person is released on bail, or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by that person, and when he is released on bail by one or more sufficient sureties, conditioned that person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

(2) If the case so requires the bond shall also bind the person released on bail to appear when called upon at the High Court or other Court to answer the charge.

Electronic monitoring requirement to be explained

390A. (1) A Court shall, before making an order for compliance with an electronic monitoring requirement, explain to the person to be so ordered—

- (a) the terms and conditions as stated in Form 55 of the Second Schedule;

- (b) the consequences which may follow any failure by the person to comply with the electronic monitoring requirement; and
- (c) any other conditions as may be imposed by the Court which includes the payment for the maintenance of the device and the time period for the person to be monitored electronically.

(2) A Court shall revoke the bail of any person who willfully fails to comply with the electronic monitoring requirement under subsection (1).

Requirement for electronic monitoring

390B. (1) When a Court has made an order for any person to comply with an electronic monitoring requirement, the Court shall require the person to co-operate with the specified arrangement for monitoring to enable the person to be monitored by electronic means.

(2) For the purpose of subsection (1), “to co-operate with the specified arrangement for monitoring” includes—

- (a) submitting to procedures required by the arrangement;
- (b) wearing or otherwise using devices approved by or in accordance with the arrangement;
- (c) maintaining such devices in the specified manner;
- (d) complying with directions given by persons carrying out functions for the purposes of those arrangement.

Electronic monitoring devices

390c. The following devices may be used for the purpose of electronic monitoring:

- (a) a device which is—

- (i) attached to a person;
 - (ii) either directly or through a device referred to in paragraph (b) or (c), linked to a receiving centre by means of a fixed line, radio frequency, satellite or other technology;
 - (iii) either directly or through a device referred to in paragraph (b) or (c), capable of transmitting to the receiving centre information relating to—
 - (A) the particular place at which the device is located at a particular time; and
 - (B) the functioning of the device; and
 - (iv) capable of detecting any tampering with the device and transmitting to the receiving centre information relating to such tampering;
- (b) a portable tracking device which is, in conjunction with a device referred to in paragraph (a)—
- (i) linked to a receiving centre by means of a fixed line, radio frequency, satellite or other technology;
 - (ii) capable of detecting the device referred to in paragraph (a) and transmitting to the receiving centre information relating to particular place at which the devices are located at a particular time;
- capable, where the portable tracking device fails to detect the device referred to in paragraph (a), of transmitting to the receiving centre information relating to such failure; and
- capable of transmitting to the receiving centre information relating to the functioning of the devices; or

- (c) a site monitoring device which is—
- (i) linked to a receiving centre by means of a fixed line, radio frequency, satellite or other technology;
 - (ii) in conjunction with a device referred to in paragraph (a), capable of—
 - (A) detecting the presence or absence of the device referred to in paragraph (a) in or from a particular place at a particular time; and
 - (B) transmitting to a receiving centre information relating to such presence or absence; and
 - (iii) capable of transmitting to the receiving centre information relating to the functioning of the device.

Person to be released

391. (1) As soon as the bond has been executed the person for whose appearance it has been executed shall be released and when he is in prison the Court admitting him to bail shall issue an order of release to the officer in charge of the prison, and that officer, on receipt of the order, shall release him.

(2) Nothing in this section, section 387 or 388 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

When warrant of arrest may be issued against person bailed

392. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court admitting him to bail may issue a warrant of arrest directing that the person released on bail be brought before it, and may order him to find sufficient sureties, and on his failing so to do may commit him to prison.

Sureties may apply to have bond discharged

393. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond either wholly or so far as relates to the applicants.

(2) On such application being made the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of the person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged, either wholly or so far as relates to the applicants and shall call upon that person to find other sufficient sureties and if he fails to do so may commit him to custody.

(4) A surety may at any time arrest the person for whose attendance and appearance he is a surety and immediately bring him before a Magistrate, who shall then discharge that surety's bond and shall call on that person to find other sufficient surety, and if he fails to do so shall commit him to custody.

Appeal

394. Any person aggrieved by any order or refusal of any inferior Court made under this Chapter may appeal to the High Court, which may confirm, vary or reverse the order of the inferior Court.

CHAPTER XXXIX

SPECIAL PROVISIONS RELATING TO EVIDENCE

Procedure where person able to give material evidence is dangerously ill

395. (1) Whenever it appears to a Magistrate that any person able to give material evidence, either for the prosecution or defence, touching a seizable offence is so dangerously ill that it is not practicable to take

his evidence according to the usual course of law the said Magistrate may take the deposition of that person provided such reasonable notice as the case admits of has been given to the prosecutor and the accused of his intention to take it and of the time and place at which he intends to take it.

(2) If the accused is in custody a Magistrate may order the officer in charge of the prison to convey him to the place, at the time notified, and the said officer shall convey him accordingly.

(3) When it is proved at the trial of the said accused for any offence to which that deposition relates that the deponent is dead or that for any sufficient cause his attendance cannot be procured, the deposition may be read either for or against the accused, notwithstanding his absence when the same was taken, if it is certified under the hand of the Magistrate who took it and the contrary is not proved or if it is shown by extrinsic evidence that—

- (a) the deponent was at the time of his examination dangerously ill as aforesaid;
- (b) the said deposition was duly taken at the place and time notified; and
- (c) reasonable notice of the intention to take it was given to the person against whom it is tendered in evidence, so that he or his advocate might have been present and might have had, if he had chosen to be present, full opportunity of cross-examination.

Evidence of persons not called as witness

396. (1) Where it is likely that—

- (a) the attendance of a person who is to give evidence cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable; or

(b) a person who is to give evidence may become incapable of giving evidence,

the Public Prosecutor may make an oral application to the Court which has jurisdiction to try the case for the production of that person before the Court for the purpose of recording that person's evidence on oath.

(2) The Court shall, upon such application being made, issue a summons or order for the attendance of the person, if the person is under custody, directed to the person in charge of the place where such person is placed, requiring him to produce the person at the time and place specified in the order.

(3) The Court shall record the evidence of the person and complete such recording within seven days from the date of the production of that person before him.

(4) In the course of recording the evidence of the person under subsection (3), the person shall be examined in accordance with the Evidence Act 1950.

(5) The Court shall cause the evidence to be reduced into writing.

(6) Notwithstanding anything contained in this Code or any other written law to the contrary, the evidence recorded under this section shall be admissible in evidence in any proceedings and the weight to be attached to such evidence shall be the same as that of a witness who appears and gives evidence in the course of a proceeding.

Deposition of medical witness

397. The High Court if satisfied that grave inconvenience would otherwise be caused may, if it thinks fit, allow the deposition of a Government Medical Officer or other medical witness taken and attested by a Magistrate in the presence of the accused to be given in evidence in any trial before such Court although the deponent is not called as a witness.

398. (*Deleted by Act A908*).

Reports of certain persons

399. (1) Any document purporting to be a report under the hand of any of the persons mentioned in subsection (2) upon any person, matter or thing examined or analysed by him or any document purporting to be a report under the hand of the Registrar of Criminals upon any matter or thing relating to finger impressions submitted to him for report may be given in evidence in any inquiry, trial or other proceeding under this Code unless that person or Registrar shall be required to attend as a witness—

(a) by the Court; or

(b) by the accused, in which case the accused shall give notice to the Public Prosecutor not less than three clear days before the commencement of the trial:

Provided always that in any case in which the Public Prosecutor intends to give in evidence any such report he shall deliver a copy of it to the accused not less than ten clear days before the commencement of the trial.

(2) The following are persons to whom the provisions of this section apply:

(a) officers of the Institute for Medical Research;

(b) *Government Medical Officers;

(c) chemists in the employment of any Government in Malaysia or of the Government of Singapore;

(d) any person appointed by the Minister by notification in the *Gazette*, to be a Document Examiner;

*NOTE—Medical Officers of the Armed Forces to be regarded as Government Medical Officers, for the purpose of inquiries into deaths and evidence under the Criminal Procedure Code—see L.N. 198/1952.

- (e) Inspector of Weights and Measures appointed as such under any written law relating to weights and measures in force in Malaysia; and
- (f) any person or class of persons to whom the Minister by notification in the *Gazette* declares that the provisions of this section shall apply.

(3) The persons referred to in subsection (2) and the Registrar of Criminals are by this Code bound to state the truth in reports made under their hands.

Report of Central Bank on currency note or coin

399A. Where in any criminal proceeding it is necessary to decide whether a currency note or coin is or is not forged, a certificate signed by the Governor of the Central Bank or any officer authorized in writing by him in that behalf that he is satisfied by personal examination that the note or coin is or is not forged, shall be sufficient evidence that the note or coin is or is not forged, as the case may be, and neither the Governor nor any officer of the Bank shall be cross-examined with regard to the contents of the certificate unless the Court otherwise orders.

Evidence or report by an expert on matters relating to organized criminal group

399B. (1) Notwithstanding any other written law, where evidence or report is given by an expert on the activities, structure, ritual, ceremonies, hand sign, insignia, characteristic of an organized criminal group or any other matters relating to an organized criminal group the Court shall admit the evidence as *prima facie* proof of the facts.

- (2) If evidence is proved that the accused—
 - (a) is involved in any of the activities, ritual or ceremonies of an organized criminal group;
 - (b) is part of, or within the structure of an organized criminal group;

- (c) exhibits any hand sign, insignia or characteristics of an organized criminal group; or
- (d) can be linked to any other matters relating to an organized criminal group,

the Court shall presume that the accused is a member of an organized criminal group.

How previous conviction or acquittal may be proved

400. (1) In any inquiry, trial or other proceeding under this Code a previous conviction or acquittal or an order directing any person to be under the supervision of the police may be proved in addition to any other mode provided by any law for the time being in force—

- (a) by an extract certified under the hand of the officer having the custody of the records of the Court whether of Malaysia or the Republic of Singapore in which that conviction or acquittal was had to be a copy of the sentence or order; or
- (b) in case of a conviction either by a certificate signed by the officer in charge of the prison in Malaysia or the Republic of Singapore in which the punishment or any part of it was inflicted, or by production of the warrant of commitment under which the punishment was suffered,

together with, in each of those cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

(2) In case the officer in charge of any prison shall state in any certificate signed by him that the fingerprints which appear on the certificate are those of the person to whom the certificate relates, that certificate shall be evidence of the fact so stated.

(3) Every Court shall presume to be genuine every document purporting to be a certificate of conviction and purporting to be signed by the officer in charge of any prison in Malaysia or the Republic of Singapore, and shall also presume that the officer by whom the

document purports to be signed was when he signed it the officer in charge of the prison mentioned in that document.

Record of evidence in absence of accused

401. (1) If it is proved that an accused person has absented himself so that there is no immediate prospect of arresting him, the Court competent to try that person for the offence complained of may, in his absence, examine the witnesses, if any, produced on behalf of the prosecution and record their depositions.

(2) Any such deposition may, on the arrest of that person, be given in evidence against him on the trial for the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable.

(3) If it appears that an offence punishable with death or with imprisonment has been committed by some person or persons unknown the Court of a First Class Magistrate may hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence if the deponent is dead or incapable of giving evidence or is beyond the limits of Malaysia.

402. (*Deleted by Act A908*).

Alibi

402A. (1) The Court shall, at the time the accused is being charged, inform the accused as to his right to put forward a defence of alibi.

(2) Where the accused seeks to put forward a defence of alibi, he shall put forward a notice of his alibi during the case management process.

(3) Notwithstanding subsection (2), where the accused has not put forward a notice of his alibi during the case management process, he may adduce evidence in support of an alibi at any time during the trial subject to the following conditions:

- (a) the accused has given a written notice of the alibi to the Public Prosecutor; and
- (b) the Public Prosecutor is given a reasonable time to investigate the alibi before such evidence can be adduced.

(4) The notice required under this section shall include particulars of the place where the accused claims to have been at the time of the commission of the offence with which he is charged, together with the names and addresses of any witnesses whom he intends to call for the purpose of establishing his alibi.

Proof by written statement

402B. (1) In any criminal proceedings, a written statement by any person shall, subject to the conditions contained in subsection (2), be admissible as evidence to the like extent as oral evidence to the like effect by that person.

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

- (a) the statement purports to be signed by the person who made it;
- (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief; and
- (c) a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings not later than fourteen days before the commencement of the trial unless the parties otherwise agree.

(3) Notwithstanding paragraph (2)(c), a party proposing to tender a statement in evidence under subsection (1) may not serve the statement to any other parties to the proceedings where the parties to the proceedings agree before or during the proceedings that the statement shall be so tendered.

(4) If a statement proposed to be tendered in evidence under subsection (1)—

(a) is made by a person who cannot read, the statement shall be read and explained to him before he signs it and the statement shall be accompanied by a statutory declaration made under the Statutory Declarations Act 1960 [*Act 13*] by the person who so read the statement to the effect that it was so read and explained; or

(b) refers to any other document or object as an exhibit, the copy served on any other party to the proceedings under paragraph (2)(c) shall be accompanied by a copy of that document or by a photograph of the object and such information as may be necessary in order to enable the party on whom it is served to inspect the document or object, as the case may be, unless it is not expedient to do so.

(5) Notwithstanding that the written statement of a person may be admissible as evidence by virtue of this section—

(a) the party by whom or on whose behalf a copy of the statement was served may call the person making the statement to give additional evidence which may include matters which are not contained in the statement; and

(b) the maker of the statement shall attend the trial for cross-examination and re-examination, if so requested.

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

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

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

(a) by delivering the document to the person himself or to his advocate; or

(b) in the case of a corporation, by delivering the document to the secretary or other like officer of the corporation at its registered or principal office or by sending the document by registered post addressed to the secretary or other like officer of the corporation at that office.

Proof by formal admission

402c. (1) Notwithstanding any other written law, and subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the Public Prosecutor or accused and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

(2) An admission under this section—

(a) may be made before or during the proceedings and shall be in writing and signed by both parties;

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

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

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

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

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

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

CHAPTER XL

PROVISIONS AS TO BONDS

Deposit instead of bond

403. When any person is required by any Court or officer to execute a bond, with or without sureties, the Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money to such amount as the Court may fix, instead of executing the bond.

Procedure on forfeiture of bond

404. (1) Whenever—

(a) it is proved to the satisfaction of the Court by which a bond under this Code has been taken; or

(b) when the bond is for appearance before a Court, it is proved to the satisfaction of that Court,

that the bond has been forfeited the Court shall record the grounds of such proof and may call upon any person bound by the bond to pay the penalty thereof or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid the Court may proceed to recover the same by issuing a warrant for the attachment and sale of property belonging to that person.

(3) The warrant may be executed within the local limits of the jurisdiction of the Court which issued it, and it shall authorize the distress and sale of any property belonging to that person without such limits when indorsed by a Magistrate within the local limits of whose jurisdiction the property is found.

(4) If the penalty is not paid, and cannot be recovered by the attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil prison for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned, and enforce payment in part only.

(6) Nothing in this section shall be deemed to prevent the penalty, or any portion of it, of any bond under this Code being recovered under the provisions of the law relating to civil procedure in force for the time being.

Appeal from orders

405. All orders made under section 404 by any Magistrate shall be appealable to the High Court.

Power to direct levy of amount due on bond

406. A Judge may direct any Magistrate to levy the amount due on a bond to appear and attend before the High Court.

CHAPTER XLI

DISPOSAL OF EXHIBITS AND OF PROPERTY THE
SUBJECT OF OFFENCES**Court shall consider manner of disposal of exhibits**

406A. (1) At the conclusion of any proceedings under this Code the Court shall consider in what manner the exhibits shall be disposed of and may make any order for that purpose in accordance with law.

(2) If the Court makes no order as to the disposal of the exhibits they shall be handed to the police officer in charge of the proceedings and may be dealt with by the police in accordance with the provisions of this Chapter as if the Court had made an order or orders to that effect:

Provided that if the police are at any time in doubt as to the proper manner of disposing of any exhibit, or if any person claims delivery to him of any exhibit and the police refuse such delivery, the police or that person may apply summarily to the Court which determined the case and the Court shall make such order regarding the disposal of the exhibit as may be proper.

Order for disposal of property regarding which offence committed

407. (1) Any Court may if it thinks fit impound any property or document produced before it under this Code.

(2) During or at the conclusion of any inquiry or trial in any criminal Court the Court may make such order as it thinks fit for the custody or disposal of any property or document whatsoever produced before it or in its custody or the custody of the police or of any public servant regarding which any offence appears to have been committed or which has been used for the commission of any offence.

The power herein conferred upon the Court shall include the power to make an order for the forfeiture or confiscation or for the destruction or for the delivery to any person of such property, but shall be exercised subject to any special provisions relating to forfeiture, confiscation,

destruction or delivery contained in the written law under which the conviction was had.

(3) When a Judge makes such order, and cannot through his own officers conveniently deliver the property to the person entitled to it, he may direct that the order be carried into effect by a Magistrate.

(4) A Court making an order under this section in respect of any property or document shall direct whether the order is to take effect immediately or at any future date or on the happening of any future contingency and shall, except when the property is livestock or subject to speedy and natural decay, include in that order all necessary directions and conditions to ensure that the property or document will be produced as and when required for the purposes of the inquiry or trial during or at the conclusion of which such order is made or for the purposes of any appeal or further criminal proceedings resulting from such inquiry or trial.

(5) In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Disposal of seized articles

407A. (1) Notwithstanding any other provisions, the Public Prosecutor may apply to the Court for the disposal of any articles specified in subsection (2) at any time.

(2) The following seized articles may be disposed of under this section:

- (a) dangerous drugs seized under the Dangerous Drugs Act 1952 [Act 234];
- (b) clandestine drug laboratories or premises;
- (c) valuable goods;

- (d) cash money;
- (e) noxious, deleterious, corrosive, explosive, dangerous, toxic, flammable, oxidising, irritant, harmful, poisonous, psychotropic and decay substances;
- (f) video compact discs, optic discs, films and other similar devices;
- (g) publication, books and other documents;
- (h) vehicles, ships and other forms of conveyance;
- (i) equipment and machineries;
- (j) timber and timber products;
- (k) rice, food and other perishable items; and
- (l) other articles as may be determined by the Public Prosecutor that may be vulnerable to theft, substitution, constraints of proper storage space, high maintenance costs or any other considerations as the Public Prosecutor deems relevant.

(3) The Court shall make an order for the disposal of the articles specified in the application made by the Public Prosecutor under subsection (1) subject to the following procedures being complied with:

- (a) an inventory of the articles containing the description, markings and other particulars which clearly identifies the articles has been made by the officer who seized the articles, and the Magistrate or Judge having the trial jurisdiction has certified that the inventory is correct;
- (b) photographs of the articles have been taken in the presence of a Magistrate or Judge having the trial jurisdiction, and the Magistrate or Judge has certified that the photographs are true;

- (c) where possible, representative samples of the articles have been taken in the presence of a Magistrate or Judge having the trial jurisdiction, and the Magistrate or Judge has certified that the representative samples are the correct samples of the articles; and
- (d) where the articles are video compact discs, optic discs, films and other similar devices, the articles have been played for a Magistrate or Judge having the trial jurisdiction so as to ascertain the contents of the articles, and the Magistrate or Judge has certified that the contents of the articles are correct.

(4) Where the Court makes an order for the disposal of the articles under subsection (3), the Court may allow the accused to take photographs of the articles.

Penalty if property has been disposed or concealed

407B. Where an offence is proved against an accused and the property which is the subject matter of an offence has been disposed of or concealed by the accused or any person on his behalf, the Court shall order the accused to pay as a penalty a sum of which is equivalent to, in the opinion of the Court, the value of the property, and any such penalty shall be recoverable as a fine.

Direction instead of order

408. Instead of himself making an order under section 407 a Judge may direct the property to be delivered to a Magistrate, who shall, in such cases, deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent person of money found on accused

409. When any person is convicted of any offence which includes or amounts to theft or receiving stolen property and it is proved that any other person has bought the stolen property from him without knowing

or having reason to believe that the same was stolen and that any money has, on his arrest, been taken out of the possession of the convicted person, the Court may, on the application of the purchaser and on the restitution of the stolen property to the person entitled to the possession of it, order that out of that money a sum not exceeding the price paid by the purchaser be delivered to him.

Stay of order

410. The High Court may direct any order under section 407 or 409 made by a Magistrate's Court to be stayed pending consideration by the High Court and may modify, alter or annul that order.

Destruction of libellous and other matter

411. (1) On a conviction under section 292, 293, 501 or 502 of the Penal Code the Court may order the destruction of all the copies of the thing in respect of which the conviction was had and which are in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may in like manner, on a conviction under section 272, 273, 274 or 275 of the Penal Code, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

Restoration of possession of immovable property

412. (1) Whenever a person is convicted of an offence attended by criminal force and it appears to the Court that by that force any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order that property to be restored to the possession of the person who has been dispossessed.

(2) No such order shall prejudice any right or interest to or in that immovable property which any person may be able to establish in a civil suit.

Procedure by police on seizure of property

413. (1) The seizure or finding by any police officer of property taken under section 20 or alleged or suspected to have been stolen or found under circumstances which create suspicion of the commission of any offence shall be immediately reported to a Magistrate, who shall make such order as he thinks fit respecting the delivery of the property to the person entitled to the possession of it, or, if that person cannot be ascertained, respecting the custody and production of the property.

(2) If the person so entitled is known the Magistrate may order the property to be delivered to him on such conditions, if any, as the Magistrate thinks fit, and shall in that case cause a notice to be served on that person informing him of the terms of the order and requiring him to take delivery of the property within such period from the date of the service of the notice (not being less than forty-eight hours) as the Magistrate may in the notice prescribe.

(3) If that person is unknown the Magistrate may direct that the property be detained in police custody, and the Chief Police Officer shall, in that case, issue a public notification specifying the articles of which the property consists and requiring any person who has any claim to it to appear before him and establish his claim within six months from the date of the public notification:

Provided that, where it is shown to the satisfaction of the Magistrate that the property is of no appreciable value, or that its value is so small as, in the opinion of the Magistrate, to render impractical the sale, as hereinafter provided, of the property, or as to make its detention in police custody unreasonable in view of the expense or inconvenience that would thereby be involved, the Magistrate may order the property to be destroyed or otherwise disposed of, either on the expiration of such period after the publication of notification above referred to as he may determine or immediately as he thinks fit.

(4) Every notification under subsection (3) shall, if the value of the property amounts to fifty ringgit, be published in the *Gazette*.

(5) Notwithstanding the preceding subsections, where the property is required for the investigation of a case and it is necessary for the

property to be detained, the property shall be kept in a safe and proper place by the Officer in charge of a Police District where the offence was committed.

Procedure where no claim established

414. (1) If within three months from the publication of a notification under subsection 413(3) no person establishes a claim to such property and if the person in whose possession the property was found is unable to show that it was legally acquired by him, the property may be sold on the order of the Officer in charge of a Police District.

(2) If within six months from the publication of the notification no person has established a claim to the property, the ownership of the property or, if sold, the net proceeds of it shall then pass to and become vested in the Federal Government.

Procedure where property is perishable or of small value

415. (1) Any property detained in police custody on the order of a Magistrate made under subsection 413(3) may be sold by public auction or in such manner as may be practicable if—

- (a) it is subject to speedy decay or deterioration;
- (b) it cannot be maintained without difficulty, or it is not practicable to maintain;
- (c) in the opinion of the police officer that the value of such property is less than ten thousand ringgit; or
- (d) its custody involves unreasonable expense and inconvenience.

(2) The proceeds of the sale shall be then passed to and become vested in the Federal Government after deducting the cost and expenses of the maintenance and sale of the property.

Procedure where owner is absent

416. (1) If the person entitled to the possession of such property is absent from the State and the property is subject to speedy and natural decay or the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner or that the value of the property is less than ten ringgit the Magistrate may, at any time, direct it to be sold and subsection 414(2) shall apply to the net proceeds of the sale.

(2) If the person to whom property has been ordered to be delivered under subsection 413(2) neglects or omits to take delivery of the property within the period prescribed, the Magistrate may, where the property is subject to speedy and natural decay or where in his opinion its value is less than ten ringgit, direct that the property be sold and the net proceeds of the sales shall, on demand, be paid over to the person entitled to it.

CHAPTER XLII

TRANSFER OF CRIMINAL CASES

High Court's power to transfer cases

417. (1) Whenever it is made to appear to the High Court—

- (a) that a fair and impartial trial cannot be had in any criminal Court subordinate to it;
- (b) that some question of law of unusual difficulty is likely to arise;
- (c) that a view of the place in or near which any offence has been committed may be required for the satisfactory trial of the same;
- (d) that an order under this section will tend to the general convenience of the parties or witnesses; or

- (e) that such an order is expedient for the ends of justice, or is required by any provision of this Code,

it may order—

- (aa) that any offence be tried by any Court not empowered under sections 121 to 126 but in other respects competent to try such offence;
- (bb) that any particular case or class of cases be transferred from a criminal Court subordinate to it to any other such criminal Court of equal or superior jurisdiction; or
- (cc) that any particular criminal case be transferred to and tried before the High Court.
- (dd) *(Deleted by Act A908).*
- (ee) *(Deleted by Act A908).*

(2) The High Court may make an order under subsection (1) either on the report of the lower Court, or on the application of the Public Prosecutor or the accused person, or on its own initiative.

(3) (a) When an order is made under paragraph (1)(cc) the lower Court before which the trial of the offence against the accused person is pending shall cause the accused person to appear or be brought before the High Court on the date specified in the said order or as soon as may be practicable if no such date is specified.

(b) When the accused person appears or is brought before the High Court in accordance with paragraph (a), it shall fix a date for his trial which shall be held in accordance with the procedure under Chapter XX.

(4) The Court to which a case is transferred under this section may act on the evidence already recorded in a trial or partly so recorded and partly recorded by itself, or it may resummon the witnesses and recommence the trial:

Provided that in any case so transferred the Public Prosecutor or the accused person may, when the Court to which the case is transferred commences its proceedings, apply that the witnesses or any of them be resummoned and reheard.

Application for transfer to be supported by affidavit

418. (1) Every application for the exercise of the power conferred by section 417 shall be made by motion which shall, except when the applicant is the Public Prosecutor, be supported by affidavit.

(2) Every such application shall be made before the inquiry into or trial of the offence has been concluded.

(3) When an accused person makes an application under this section, a Judge may, if he thinks fit, direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the expenses of the prosecution.

(4) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made, and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of the notice and the hearing of the application.

Trials by High Court on a certificate by the Public Prosecutor

418A. (1) Notwithstanding section 417 and subject to section 418B, the Public Prosecutor may in any particular case triable by a criminal Court subordinate to the High Court issue a certificate specifying the High Court in which the proceedings are to be instituted or transferred and requiring that the accused person be caused to appear or be produced before such High Court.

(2) The power of the Public Prosecutor under subsection (1) shall be exercised by him personally.

(3) The certificate of the Public Prosecutor issued under subsection (1) shall be tendered to the subordinate Court before which the case is triable whereupon the Court shall transfer the case to the High Court specified in the certificate and cause the accused person to appear or be brought before such Court as soon as may be practicable.

(4) When the accused person appears or is brought before the High Court in accordance with subsection (3), the High Court shall fix a date for his trial which shall be held in accordance with the procedure under Chapter XX.

Cases to which section 418A is applicable

418B. Section 418A shall apply to all cases triable under this Code by a criminal Court subordinate to the High Court, whether the proceedings are instituted before or after the coming into force of that section, provided that the accused person has not pleaded guilty and no evidence in respect of the case against him has begun to be adduced.

CHAPTER XLIII

IRREGULARITIES IN PROCEEDINGS

Proceeding in wrong place, *etc.*

419. No finding, sentence or order of any criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at, passed or made, took place in a wrong local area or before a wrong Magistrate or Court, unless it appears that such error occasioned a failure of justice.

Procedure when confession irregularly taken

420. If any Court before which a confession or other statement of an accused person recorded under * section 115 or 256 is tendered or has been received in evidence finds that any of the provisions of that

*NOTE—Section 115 has been deleted by Criminal Procedure Code (Amendment) Act 2006 [Act A1274] w.e.f. 07-09-2007—see section 16 of Criminal Procedure Code (Amendment) Act 2006 [Act A1274].

section has not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded and if it is satisfied of the same that statement shall be admitted if the error has not injured the accused as to his defence on the merits.

Omission to frame charge

421. (1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed unless, in the opinion of the appellate court, a failure of justice has been occasioned thereby.

(2) If the appellate court thinks that a failure of justice has been occasioned by the omission to frame a charge it shall order that a new trial be had.

Irregularities not to vitiate proceedings

422. Subject to the provisions contained in this Chapter no finding, sentence or order passed or made by a Court of competent jurisdiction shall be reversed or altered on account of—

- (a) any error, omission or irregularity in the complaint, sanction, consent, summons, warrant, charge, judgment or other proceedings before or during trial, or in any inquiry or other proceedings under this Code;
- (b) the want of any sanction; or
- (c) the improper admission or rejection of any evidence,

unless such error, omission, irregularity, want, or improper admission or rejection of evidence has occasioned a failure of justice.

Irregularity in distress

423. No distress made under this Code shall be deemed unlawful, nor shall any person making it be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating to it, nor shall that party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by the irregularity may recover full satisfaction for the special damage caused by it in any Court of competent jurisdiction.

CHAPTER XLIV

MISCELLANEOUS

Affidavits before whom sworn

424. (1) Subject to any rules of Court, any affidavit may be used in a criminal Court if it is sworn—

- (a) in Malaysia before any Magistrate or Registrar;
- (b) in the Republic of Singapore before any Judge, District Judge, Assistant District Judge, Registrar, Deputy Registrar, Police Magistrate or before any person authorized to take affidavits by any written law in force in the Republic of Singapore;
- (c) in England, Scotland, Ireland or the Channel Islands or in any Colony, island or place (other than the above) under the dominion or jurisdiction or protection of Her Britannic Majesty, before any Judge, Court, Notary Public or other person lawfully authorized to administer oaths;
- (d) in any other place before any officer exercising consular functions on behalf of Malaysia.

(2) The Court shall take judicial notice of the seal or signature, as the case may be, of any Judge, Court, Notary Public, Consul, Vice-Consul or other person appended or subscribed to any affidavit.

Power of Court to summon and examine persons

425. Any Court may at any stage of any inquiry, trial or other proceeding under this Code summon any person as witness, or examine any person in attendance though not summoned as a witness, or recall and re-examine any person already examined, and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Trial in absence of an accused

425A. (1) Notwithstanding any other provision of this Code, if an accused after being charged absconds before or during the course of his trial, the accused shall be deemed to have waived his right to be present at the trial.

(2) A Court may proceed or continue with the trial and pronounce judgment in the absence of the accused provided that the Court shall not pass any of the following sentences in the absence of the accused:

- (a) death;
- (b) imprisonment for life; and
- (c) imprisonment for natural life.

(3) If a warrant of arrest has been issued—

- (a) the Court may adjourn the trial and await the appearance of the accused or await the execution of the warrant; or
- (b) if the Court is satisfied that it is no longer in the interest of justice to await the appearance of the accused or to await the

execution of the warrant, the Court may, at any time, proceed or continue with the trial.

(4) If the Court proceeds or continues with the trial pursuant to subsection (2), the Court may draw an inference adverse to the accused from the fact that he has absconded.

(5) If an accused reappears at his trial, he is not entitled to have any part of the proceedings that was conducted in his absence reopened unless the Court is satisfied that because of exceptional circumstances it is in the interest of justice to reopen the proceedings.

(6) Where an accused has absconded and the Court proceeds or continues with his trial, counsel for the accused may continue to act for the accused in the trial.

(7) For the purpose of this section, “judgment” includes conviction, acquittal and sentence.

Order for payment of costs of prosecution and compensation

426. (1) The Court before which an accused is convicted of an offence—

(a) in its discretion, may make an order for the payment by the convicted accused of the cost of his prosecution or any part thereof as may be agreed by the Public Prosecutor; or

(b) where—

(i) the prosecution of the convicted accused involves evidence obtained pursuant to a request made under the Mutual Assistance in Criminal Matters Act 2002 [Act 621]; or

(ii) the accused has obtained pecuniary gain,

upon the application of the Public Prosecutor, shall make an order for the payment by the convicted accused of the cost of his prosecution or

any part thereof, the sum of which is to be fixed by the Court as may be agreed by the Public Prosecutor.

(1A) Without prejudice to subsection (1), the Court before which an accused is convicted of an offence shall, upon the application of the Public Prosecution, make an order against the convicted accused for the payment by him, or where the convicted accused is a child, by his parent or guardian, of a sum to be fixed by the Court as compensation to a person who is the victim of the offence committed by the convicted accused in respect of the injury to his person or character, or loss of his income or property, as a result of the offence committed.

(1B) Where the person who is the victim of the offence is deceased, the order of compensation shall be made to a representative of the deceased person.

(1C) The Court shall, in making an order under subsection (1A), take into consideration the following factors:

- (a) the nature of the offence;
- (b) the injury sustained by the victim;
- (c) the expenses incurred by the victim;
- (d) the damage to, or loss of, property suffered by the victim;
- (e) the loss of income incurred by the victim;
- (f) the ability of the convicted accused to pay; and
- (g) any other factors which the Court deems relevant.

(1D) For the purpose of making an order under subsection (1A), the Court may hold an inquiry as it thinks fit.

(2) The Court shall specify the person to whom any sum in respect of costs or compensation as aforesaid is to be paid, and section 432 [except paragraph (1)(d)] shall be applicable to any order made under this section.

(3) The Court may direct that an order for payment of costs, or an order for payment of compensation, shall have priority, and, if no direction is given, an order for payment of costs shall have priority over an order for payment of compensation.

(4) To the extent of the amount which has been paid to a person, or to the representatives of a person, under an order for compensation, any claim of such person or representatives for damages sustained by reason of the offence shall be deemed to have been satisfied, but the order for payment shall not prejudice any right to a civil remedy for the recovery of any property or for the recovery of damages beyond the amount of compensation paid under the order.

(5) Every order made under this section by a Magistrate shall be appealable to the High Court.

Payment of expenses of prosecutors and witnesses

427. In every criminal case tried before the High Court, and in every criminal case tried before a Sessions Court or a Magistrate's Court, the Court may in its discretion order payment out of the Consolidated Fund to the prosecutor and to the witnesses both for the prosecution and for the defence, or to such of them as it thinks fit, of the expenses incurred by them severally in and about attending the High Court, or the Sessions Court or Magistrate's Court and also compensation for their trouble and loss of time, subject to such rules as are prescribed.

Rules as to rates of payment

428. The rule committee may make rules as to the rates or scales of payment of the expenses to be ordered as aforesaid and concerning the form of the certificates hereinafter mentioned and the details to be inserted in it.

429. (*Deleted by Act A908*).

Reward for unusual exertion

430. Whenever it appears to any Court that a private person has shown unusual courage, diligence or exertion in the apprehension of a person accused of having committed, attempted to commit or abetted an offence punishable with death or imprisonment, such Court may order payment to him out of the Consolidated Fund of any sum not less than one thousand ringgit and not more than ten thousand ringgit.

Compensation for family of person killed in arresting

431. If any person is killed in endeavouring to arrest or to keep in lawful custody a person accused as aforesaid the Minister of Finance may order payment out of the Consolidated Fund to the wife, husband, parent or child of the deceased of such sum or sums as appear reasonable in compensation for the loss sustained.

Provisions as to money payable as costs or compensation

432. (1) Subject to the provisions of this Code where any person is, under this Code, for any reason whatsoever, ordered to pay any sum of money by way of costs or compensation, the Court making the order may in its discretion do all or any of the following things, namely—

- (a) allow time for the payment of that sum;
- (b) direct payment of that sum to be made by installments;
- (c) issue a warrant for the levy of that sum by distress and sale of any property belonging to that person;
- (d) direct that in default of payment or of a sufficient distress to satisfy such sum, that person shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may be sentenced or to which he may be liable under a commutation of sentence:

Provided that where time is not allowed for the payment of that sum an order for imprisonment in default of payment shall not be issued in the first instance unless it appears to the Court that that person has no property or insufficient property to satisfy the money payable or that the levy of distress will be more injurious to him or his family than imprisonment;

- (e) direct that that person be searched and that any money found on him when so searched or which in the event of his being committed to prison, may be found on him when taken to prison shall be applied towards the payment of that sum, the surplus, if any, being returned to him:

Provided that such money shall not be so applied if the Court is satisfied that the money does not belong to the person on whom it was found or that the loss of the money will be more injurious to his family than his imprisonment.

- (2) The term for which the Court directs that person to be imprisoned in default of payment or of a sufficient distress to satisfy any sum shall not exceed the following scale—

When the money to be paid
does not exceed RM500 One month

When the money to be paid exceeds
RM500 but does not exceed RM1000 Two months

In any other case Six months

- (3) Subject to the provisions of this Code the imprisonment which the Court imposes under this section shall terminate whenever the money is paid or levied by process of law.

- (4) If before the expiration of the time of such imprisonment such a proportion of the money is paid or levied that the time of imprisonment suffered is not less than proportional to the part of the money still unpaid, the imprisonment shall terminate.

(5) A warrant for the levy of any such sum may be executed at any place in Malaysia but if it is required to be executed outside the State in which it is issued it shall be endorsed for that purpose by a Judge or a First Class Magistrate having jurisdiction in the State in which it is to be executed.

Copies of proceedings

433. (1) If the complainant or the accused or any person affected by a judgment or order passed or made by a criminal Court desires to have a copy of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished with it by the Court:

Provided that he pays for the same such reasonable sum as the Court may direct unless the Court for some special reason thinks fit to furnish it free of cost.

(2) An application for a copy of the record may be made at any time by the Public Prosecutor by whom no fee shall be payable.

434. (*Deleted by F.M. Ord. No. 14 of 1952*).

Power of police to seize property suspected of being stolen

435. Any member of the police force may seize any property which is alleged or may be suspected to have been stolen, or which is found under circumstances which create suspicion that an offence has been committed, and such member, if subordinate to the officer in charge of the nearest police station, shall immediately report the seizure to that officer.

Person released on bail to give address for service

436. (1) When any person is released on bail, or on his own bond, he shall give to the Court or officer taking the bail or bond an address at which service upon him of all notices and process may be made.

(2) In any case where that person cannot be found, or for other reasons the service on him cannot be effected, any notice or process left for that person at such address shall be deemed to have been duly served upon him.

Power to compel restoration of abducted persons

437. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman or of a female child under the age of fourteen years for any unlawful purpose within the local limits of his jurisdiction, he may make an order for the immediate restoration of the woman to her liberty, or of the female child to her husband, parent, guardian or other person having the lawful charge of that child, and may compel compliance with the order, using such force as may be necessary.

Compensation for giving in charge groundlessly

438. (1) Whenever any person causes a police officer to arrest another person if it appears to the Magistrate who takes cognizance of the case that there was no sufficient ground for causing the arrest the Magistrate may award such compensation, not exceeding twenty-five ringgit, to be paid by the person so causing the arrest to each person so arrested for his loss of time and any expenses incurred by him in the matter as the Magistrate shall think fit.

(2) *(Omitted).*

(3) Such compensation shall be no bar to an action for false imprisonment.

Magistrate not to act where interested

439. No Magistrate shall, except with the permission of the High Court to which an appeal lies from his Court, try any case to or in which he is a party or personally interested.

Explanation—A Magistrate shall not be deemed to be a party or personally interested within the meaning of this section to or in any case by reason only that he is a member of a local authority or otherwise concerned in it in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed or any other place in which any transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

ILLUSTRATION

A, as Collector of Land Revenue, upon consideration of information furnished to him directs the prosecution of B for a breach of the land laws. A is disqualified from trying this case as a Magistrate.

Public servants not to bid at sales under this Code

440. A public servant, having any duty to perform in connection with the sale of any property under this Code, shall not purchase or bid for the property.

When receivers, etc., charged, evidence of other cases allowed

441. Where proceedings are taken against any person for having received goods knowing them to be stolen or for having in his possession stolen property, evidence may be given at any stage of the proceedings that there was found in the possession of that person other property stolen within the preceding period of twelve months, and that evidence may be taken into consideration for the purpose of proving that that person knew the property to be stolen which forms the subject of the proceedings taken against him.

When evidence of previous conviction may be given

442. Where proceedings are taken against any person for having received goods knowing them to be stolen or for having in his possession stolen property and evidence has been given that the stolen property has been found in his possession, then if that person has, within five years immediately preceding, been convicted of any offence involving fraud or dishonesty, evidence of his previous conviction may be given at any stage of the proceedings and may be

taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to have been stolen:

Provided that not less than seven days' notice in writing shall have been given to the person accused that proof is intended to be given of his previous conviction; and it shall not be necessary for the purposes of this section to enter in the charge the previous conviction of the person so accused.

Forms

443. The Forms set out in the Second Schedule, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in them.

Application of fines

444. The Court imposing any fine under the authority of any law for the time being in force may award any portion of it to an informer.

Electronic monitoring requirement on acquittal

445. (1) If an accused person who is under an electronic monitoring requirement—

- (a) is convicted by the Court and decides to appeal against his conviction, the accused person may apply to the Court for the period of the electronic monitoring requirement to be extended by the Court until his appeal is proceeded with; or
- (b) is acquitted by the Court and the Public Prosecutor decides to appeal against the acquittal, the Public Prosecutor may apply to the Court for the electronic monitoring requirement to be continued until his appeal is proceeded with.

(2) If an accused person who is not under an electronic monitoring requirement—

(a) is convicted by the Court and decides to appeal against his conviction, the accused person may apply to the Court for the electronic monitoring requirement to be applied to him until his appeal is proceeded with; or

(b) is acquitted by the Court and the Public Prosecutor decides to appeal against the acquittal, the Public Prosecutor may apply to the Court for the electronic monitoring requirement to be applicable to the person so acquitted until his appeal is proceeded with.

(3) For the purpose of this section, “Court” includes the Court of Appeal when the Court of Appeal is not the final appellate court.

SCHEDULES

FIRST SCHEDULE

TABULAR STATEMENT OF OFFENCES UNDER THE PENAL CODE

EXPLANATORY NOTES—

(1) The entries in the Second and Seventh columns of this Schedule, headed respectively “Offence” and “Maximum Punishment under the Penal Code”, are not intended as definitions of the offences and punishments described in the several corresponding sections of the Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the First column.

(2) The entries in the Third column of this Schedule are not intended in any way to restrict the powers of arrest without warrant which may be lawfully exercised by Police Officers.

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
CHAPTER V—ABETMENT						
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	According as the offence abetted is compoundable or not	The same punishment as for the offence abetted
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor	do.	do.	do.	do.	do.

*This Schedule has been amended to bring it into accord with the provisions of the Penal Code [Act 574] and of the Criminal Justice Act 1953 [Act 345].

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER V—ABETMENT—(cont.)

111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	According as the offence abetted is compoundable or not	The same punishment as for the offence abetted
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor	do.	do.	do.	do.	do.
114	Abetment of any offence, if abettor is present when offence is committed	do.	do.	do.	do.	do.
115	Abetment of an offence punishable with death or imprisonment for life, if the offence is not committed in consequence of the abetment	do.	do.	Not bailable	do.	Imprisonment for seven years, and fine
115	If an act which causes harm be done in consequence of the abetment	do.	do.	do.	do.	Imprisonment for fourteen years, and fine

116	Abetment of an offence, punishable with imprisonment, if the offence is not committed in consequence of the abetment	do.	do.	According as the offence abetted is bailable or not	do.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both
116	If the abettor or the person abetted is a public servant whose duty it is to prevent the offence	do.	do.	do.	do.	Imprisonment extending to half of the longest term provided for the offence, or fine, or both
117	Abetting the commission of an offence by the public, or by more than ten persons	do.	do.	do.	do.	Imprisonment for three years, or fine, or both

CHAPTER V—ABETMENT—(cont.)

118	Concealing a design to commit an offence punishable with death or imprisonment for life, if the offence is committed	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	Not bailable	According as the offence abetted is compoundable or not	Imprisonment for seven years, and fine
118	If the offence is not committed	do.	do.	do.	do.	Imprisonment for three years, and fine
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence is committed	do.	do.	According as the offence abetted is bailable or not	do.	Imprisonment extending to half of the longest term provided for the offence, or fine, or both
119	If the offence is punishable with death or imprisonment for life	do.	do.	Not bailable	do.	Imprisonment for ten years
119	If the offence is not committed	do.	do.	According as the offence abetted is bailable or not	do.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER V—ABETMENT—(cont.)

120	Concealing a design to commit an offence punishable with imprisonment, if the offence is committed	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	According as the offence abetted is compoundable or not	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both
120	If the offence is not committed	do.	do.	do.	do.	Imprisonment extending to one-eighth part of the longest term provided for the offence, or fine, or both

CHAPTER VA —CRIMINAL CONSPIRACY

120B	Criminal conspiracy to commit offence punishable with death	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for two years; where no express provision, same as if he had abetted the offence
120B	Being party to a criminal conspiracy other than to commit offence punishable with death	May arrest without warrant	Summons	Bailable	do.	Imprisonment for six months, or fine, or both

CHAPTER VI—OFFENCES AGAINST THE STATE

121	Waging or attempting to wage war, or abetting the waging of war, against the Yang di-Pertuan Agong or the Ruler or Yang di-Pertua Negeri	May arrest without warrant	Warrant	Not bailable	Not compoundable	Death; or imprisonment for life, and fine
121A	Offences against the person of the Yang di-Pertuan Agong or a Ruler or Yang di-Pertua Negeri	do.	do.	do.	do.	Death, and fine
121B	Offences against the authority of the Yang di-Pertuan Agong or a Ruler or Yang di-Pertua Negeri	do.	do.	do.	do.	Imprisonment for life, and fine
121C	Abetting offences under section 121A or 121B	do.	do.	do.	do.	Punishment provided for offences under section 121A or 121B
121D	Intentional omission to give information of offences against section 121, 121A, 121B or 121C by a person bound to inform	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both
122	Collecting arms, etc., with the intention of waging war against the Yang di-Pertuan Agong or a Ruler or Yang di-Pertua Negeri	do.	do.	do.	do.	Imprisonment for life, or imprisonment for twenty years, and fine
123	Concealing with intent to facilitate a design to wage war	do.	do.	do.	do.	Imprisonment for ten years, and fine
124	Assaulting a member of Parliament, etc., with intent to compel or restraint the exercise of any lawful power	do.	do.	do.	do.	Imprisonment for seven years, and fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER VI—OFFENCES AGAINST THE STATE—(cont.)

124B	Activity detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to twenty years
124C	Attempt to commit activity detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to fifteen years
124D	Printing, sale, <i>etc.</i> , of documents and publication detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to fifteen years
124E	Possession of documents and publication detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to ten years
124F	Importation of document and publication detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to five years
124G	Posting of placards, <i>etc.</i>	do.	do.	do.	do.	Imprisonment which may extend to five years
124H	Dissemination of information	do.	do.	do.	do.	Imprisonment which may extend to five years
124I	Dissemination of false reports	do.	do.	do.	do.	Imprisonment which may extend to five years
124J	Receipt of document and publication detrimental to parliamentary democracy	do.	do.	do.	do.	Imprisonment which may extend to ten years
124K	Sabotage	do.	do.	do.	do.	Imprisonment for life
124L	Attempt to commit sabotage	do.	do.	do.	do.	Imprisonment which may extend to fifteen years

124M	Espionage	do.	do.	do.	do.	Imprisonment for life
124N	Attempt to commit espionage	do.	do.	do.	do	Imprisonment which may extend to fifteen years
125	Waging war against any power in alliance or at peace with the Yang di-Pertuan Agong or abetting the waging of the such war	May arrest without warrant	Warrant	Not bailable	Not compundable	Imprisonment for life, and fine; or imprisonment for twenty years and fine; or fine
125A	Harbouring or attempting to harbour any person in Malaysia or person residing in a foreign State at war or in hostility against the Yang	do.	do.	do.	do.	Imprisonment for life, and fine; or imprisonment for twenty years and fine; or fine
126	Committing depredation on the or at peace with the Yang di-Pertuan Agong	do.	do.	do.	do.	Imprisonment for seven years, and fine, and forfeiture of certain property
127	Receiving property taken by war or depredation mentioned in sections 125 and 126	do.	do.	do.	do.	Imprisonment for seven years, and fine, and forfeiture of certain property
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape	do.	do.	do.	do.	Imprisonment for life, or imprisonment for twenty years, and fine
129	Public servant negligently suffering prisoner of State or War in his custody to escape	do.	do.	Bailable	do.	Imprisonment for three years, and fine
130	Aiding escape of, rescuing or harbouring such prisoner, or offering any resistance to the recapture of such prisoner	do.	do.	Not bailable	do.	Imprisonment for life, or imprisonment for twenty years, and fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER VIA—OFFENCES RELATING TO TERRORISM

Suppression of Terrorist Acts and Support for Terrorist Acts

130C	Committing terrorist acts	May arrest without warrant	Warrant	Not bailable	Not compoundable	Death; or imprisonment for not less than seven years but not exceeding thirty years, and fine
130D	Providing devices to terrorist groups	do.	do.	do.	do.	Imprisonment for life, or imprisonment for thirty years, and fine
130E	Recruiting persons to be members of terrorist groups or to participate in terrorist acts	do.	do.	do.	do.	Imprisonment for thirty years, and fine
130F	Providing training and instruction to terrorist groups and persons committing terrorist acts	do.	do.	do.	do.	Imprisonment for thirty years, and fine
130FA	Receiving training and instruction from terrorist groups and persons committing terrorist acts	do.	do.	do.	do.	Imprisonment for thirty years, and fine
130FB	Attendance at place used for terrorist training	do.	do.	do.	do.	Imprisonment for ten years, or with fine
130G	Inciting, promoting or soliciting property for the commission of terrorist acts	do.	do.	do.	do.	Imprisonment for thirty years, and fine

130H	Providing facilities in support of terrorist acts	do.	do.	do.	do.	Imprisonment for thirty years, and fine
130I	Directing activities of terrorist groups	May arrest without warrant	Warrant	Not bailable	Not compoundable	Death; or imprisonment for not less than seven years but not exceeding thirty years, and fine
130J	Soliciting or giving support to terrorist groups or the commission of terrorist acts	do.	do.	do.	do.	Imprisonment for life, or imprisonment for thirty years, or fine, and forfeiture of certain property
130JA	Travelling to, through or from Malaysia for the commission of terrorist acts in foreign country	do.	do.	do.	do.	Imprisonment for thirty years, and fine
130JB	Possession, <i>etc.</i> , of items associated with terrorist groups or terrorist acts	do.	do.	do.	do.	Imprisonment for seven years, and fine, and forfeiture of certain property
130JC	Offence to build, <i>etc.</i> , conveyance for use in terrorist acts	do.	do.	do.	do.	Imprisonment for thirty years, and fine, and forfeiture of conveyance
130JD	Preparation of terrorist acts	do.	do.	do.	do.	Imprisonment for seven years, and fine
130K	Harbouring persons committing terrorist acts	do.	do.	do.	do.	Imprisonment for life, and fine; or imprisonment for twenty years, or fine
130KA	Member of a terrorist group	do.	do.	do.	do.	Imprisonment which may extend to imprisonment for life, and fine
130M	Intentional omission to give information relating to terrorist acts	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
<i>Suppression of Financing of Terrorist Acts</i>						
130N	Providing or collecting property for terrorist acts	May arrest without warrant	Warrant	Not bailable	Not compoundable	Death; or imprisonment for not less than seven years but not exceeding thirty years, and fine, and forfeiture of certain property
130O	Providing services for terrorist purposes	do.	do.	do.	do.	Death; or imprisonment for not less than seven years but not exceeding thirty years, and fine
130P	Arranging for retention or control of terrorist property	do.	do.	do.	do.	Imprisonment for thirty years, and fine, and forfeiture of certain property
130Q	Dealing with terrorist property	do.	do.	do.	do.	Imprisonment for twenty years; or fine, and forfeiture of certain property
130QA	Accepting gratification to facilitate or enable terrorist acts	do.	do.	do.	do.	If the act results in death, with death, in any other case, imprisonment for not less than seven years but not exceeding thirty years, and fine
130R	Intentional omission to give information about terrorist property	do.	do.	do.	do.	Imprisonment for seven years or fine, or both
130S	Intentional omission to give information relating to terrorism financing offence	do.	do.	do.	do.	Imprisonment for seven years, or fine, or

CHAPTER VI B – ORGANIZED CRIME

130V	Member of an organized criminal group	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for not less than five years and not more than twenty years
130W	Assisting in an organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to ten years
130X	Harbouring a member of an organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to five years, and fine
130Y	Consorting with an organized criminal group	do.	do.	do.	do.	Imprisonment for not less than five years and not more than twenty years
130Z	Recruiting persons to be members of an organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to ten years, and fine
130ZA	Participation in an organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to ten years, and fine
130ZB	Accepting gratification to facilitate or enable organized criminal activity	do.	do.	do.	do.	If the act results in death, with death, in any other case, with imprisonment not less than seven years but not exceeding thirty years, and fine

CHAPTER VII —OFFENCES RELATING TO THE ARMED FORCES

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and fine
132	Abetment of mutiny, if mutiny is committed in consequence thereof	do.	do.	do.	do.	Death; or imprisonment for twenty years, and fine
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office	do.	do.	do.	do.	Imprisonment for three years, and fine

1	2	3	4	5	6	7
<i>Penal Code Section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER VII—OFFENCES RELATING TO THE ARMED FORCES—(cont.)

134	Abetment of such assault, if the assault is committed	do.	do.	do.	do.	Imprisonment for seven years, and fine
135	Abetment of the desertion of an officer, soldier or sailor	do.	do.	Bailable	do.	Imprisonment for two years, or fine, or both
136	Harbouring such an officer, soldier or sailor who has deserted	do.	do.	do.	do.	do.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge of it	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Fine of one thousand ringgit
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence is committed in consequence	May arrest without warrant	Warrant	do.	do.	Imprisonment for six months, or fine, or both
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier	do.	Summons	do.	do.	Imprisonment for three months, or fine of one thousand ringgit, or both

CHAPTER VIII—OFFENCES AGAINST PUBLIC TRANQUILITY

143	Being member of an unlawful assembly	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for six months, or fine, or both
144	Possessing weapons or missiles at unlawful assemblies	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse	do.	do.	do.	do.	do.

147	Rioting	do.	do.	do.	do.	do.
148	Possessing weapons or missiles at riot	do.	do.	do.	do.	Imprisonment for five years, or, fine, or both
149	Offence committed by member of an unlawful assembly, other members guilty	According as arrest may be made without warrant for the offence or not	According as a warrant or summons may issue for the offence	According as the offence is bailable or not	Not compoundable	The same as for the offence
150	Hiring, engaging or employing persons to take part in an unlawful assembly	May arrest without warrant	According to the offence committed by the person hired, engaged or employed	do.	do.	The same as for a member of such assembly and for any offence committed by any member of such assembly
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse	do.	Warrant	Not bailable	do.	Imprisonment for six months, or fine, or both
152	Assaulting or obstructing public servant when suppressing riot, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for three years, or fine, or both
153	Wantonly giving provocation with intent to cause riot, if rioting is committed	do.	do.	do.	do.	Imprisonment for one year, or fine, or both
153	If not committed	do.	do.	do.	do.	Imprisonment for six months, or fine, or both
154	Owner or occupier of land not giving information of riot, <i>etc.</i>	Shall not arrest without warrant	Summons	Bailable	do.	Fine of two thousand ringgit
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it	do.	do.	do.	do.	Fine
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it	do.	do.	do.	do.	Fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER VIII — OFFENCES AGAINST PUBLIC TRANQUILITY—(cont.)

157	Harbouring persons hired for an unlawful assembly	May arrest without warrant	do.	do.	do.	Imprisonment for six months, or fine, or both
158	Being hired to take part in an unlawful assembly or riot	do.	do.	do.	do.	do.
158	Or to go armed	do.	Warrant	do.	do.	Imprisonment for two years, or fine, or both
160	Committing affray	Shall not arrest without warrant	Summons	do.	do.	Imprisonment for six months or fine of one thousand ringgit, or both

CHAPTER IX — OFFENCES BY, OR RELATING TO PUBLIC SERVANTS

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for three years, or fine, or both
162	Taking a gratification in order by corrupt or illegal means to influence a public servant	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for three years, or fine, or both
163	Taking a gratification for the exercise of personal influence with a public servant	do.	do.	do.	do.	Imprisonment for one year, or fine, or both

CHAPTER IX — OFFENCES BY OR RELATING TO PUBLIC SERVANTS—(cont.)

164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself	do.	do.	do.	do.	Imprisonment for three years, or fine, or both
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
166	Public servant disobeying a direction of the law with intent to cause injury to any person	do.	do.	do.	do.	Imprisonment for one year, or fine, or both
167	Public servant framing an incorrect document with intent to cause injury	do.	do.	do.	do.	Imprisonment for three years, or fine, or both
168	Public servant unlawfully engaging in trade	do.	do.	do.	do.	Imprisonment for one year, or fine, or both
169	Public servant unlawfully buying or bidding for property	do.	do.	do.	do.	Imprisonment for two years, or fine, or both, and confiscation of property if purchased
170	Personating a public servant	May arrest without warrant	Warrant	do.	do.	Imprisonment for two years, or fine, or both
171	Wearing garb or carrying token used by public servant with fraudulent intent	do.	Summons	do.	do.	Imprisonment for three months, or fine of four hundred ringgit, or both

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172	Absconding to avoid service of summons or other proceeding from a public servant	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for one month, or fine of one thousand ringgit, or both
172	If summons or notice require attendance in person, <i>etc.</i> , in a Court	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(cont.)

173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation	do.	do.	do.	do.	Imprisonment for one month, or fine of one thousand ringgit, or both
173	If summons, <i>etc.</i> , require attendance in person, <i>etc.</i> , in a Court	Shall not arrest without a warrant	Summons	Bailable	Not compoundable	Imprisonment for six months, or fine of two thousand ringgit, or both
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing from it without authority	do.	do.	do.	do.	Imprisonment for one month, or fine of one thousand ringgit, or both
174	If the order require personal attendance, <i>etc.</i> , in a Court	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document	do.	do.	do.	do.	Imprisonment for one month, or fine of one thousand ringgit, or both
175	If the document is required to be produced in or delivered to a Court	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both

176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information	do.	do.	do.	do.	Imprisonment for one month, or fine of one thousand ringgit, or both
176	If the notice of information required respects the commission of an offence, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
176	If the notice of information required respects the commission of offences under Chapter VIB	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both
177	Knowingly furnishing false information to a public servant	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
177	If the information required respects the commission of an offence, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
178	Refusing oath when duly required to take oath by a public servant	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
179	Being legally bound to state truth, and refusing to answer questions	do.	do.	do.	do.	do.
180	Refusing to sign a statement made to a public servant when legally required to do so	do.	do.	do.	do.	Imprisonment for three months, or fine of one thousand ringgit, or both
181	Knowingly stating to a public servant on oath as true that which is false	do.	Warrant	do.	do.	Imprisonment for three years, and fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(cont.)

182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for six months, or fine of two thousand ringgit, or both
183	Resistance to the taking of property by the lawful authority of a public servant	do.	do.	do.	do.	do.
184	Obstructing sale of property offered for sale by authority of a public servant	do.	do.	do.	do.	Imprisonment for one month, or fine of one thousand ringgit, or both
185	Bidding by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred by it	do.	do.	do.	do.	Imprisonment for one month, or fine of four hundred ringgit, or both
186	Obstructing public servant in discharge of his public functions	May arrest without warrant	Warrant	Not bailable	do.	Imprisonment for two years, or fine of ten thousand ringgit, or both

187	Omission to assist public servant when bound by law to give such assistance	Shall not arrest without warrant	Summons	Bailable	do.	Imprisonment for one month, or fine of four hundred ringgit, or both
187	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	do.	do.	do.	do.	Imprisonment for six months, or fine of one thousand ringgit, or both
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed	do.	do.	do.	do.	Imprisonment for one month, or fine of four hundred ringgit, or both
188	If such disobedience causes danger to human life, health or safety, etc.	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
189	Threatening a public servant with injury to him or one in whom he is interested, to induce him to do or forebear to do any official act	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
190	Threatening any person to induce him to refrain from making a legal application for protection from injury	do.	do.	do.	do.	Imprisonment for one year, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

193	Giving or fabricating false evidence in a judicial proceeding	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for seven years, and fine
193	Giving or fabricating false evidence in any other case	do.	do.	do.	do.	Imprisonment for three years, and fine
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence	do.	do.	Not bailable	do.	Imprisonment for twenty years, and fine
194	If innocent person is thereby convicted and executed	do.	do.	do.	do.	Death, or as above
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life or with imprisonment for seven years or upwards	do.	do.	do.	do.	The same as for the offence
196	Using in a judicial proceeding evidence known to be false or fabricated	do.	do.	According as the offence of giving such evidence is bailable or not	do.	The same as for giving or fabricating false evidence

197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence	do.	do.	Bailable	do.	The same as for giving false evidence
198	Using as a true certificate one known to be false in a material point	do.	do.	do.	do.	do.
199	False statement made in any declaration which is by law receivable as evidence	do.	do.	do.	do.	do.
200	Using as true any such declaration known to be false	do.	do.	do.	do.	do.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender, if a capital offence	do.	do.	do.	do.	Imprisonment for seven years, and fine
201	If punishable with imprisonment for life or imprisonment for ten years	do.	do.	do.	do.	Imprisonment for three years, and fine
201	If punishable with less than ten years' imprisonment	do.	do.	do.	do.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both
202	Intentional omission to give information of an offence by a person legally bound to inform	do.	Summons	do.	do.	Imprisonment for six months, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(cont.)

203	Giving false information respecting an offence committed	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for two years, or fine, or both
203A	Disclosure of information	do.	do.	do.	do.	Fine not more than one million ringgit, or imprisonment which may extend to one year, or both
204	Secreting or destroying any document to prevent its production as evidence	do.	do.	do.	do.	do.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security	do.	do.	do.	do.	Imprisonment for three years, or fine, or both
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture or in satisfaction of a fine under sentence, or in execution of a decree	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	do.	do.	do.	do.	do.

208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied	do.	do.	do.	do.	do.
209	False claim in a Court	do.	do.	do.	do.	Imprisonment for two years, and fine
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
211	False charge of offence made with intent to injure	do.	do.	do.	do.	do.
211	If offence charged is capital, or punishable with death, imprisonment for life, or imprisonment for a term not less than seven years	do.	do.	do.	do.	Imprisonment for seven years, and fine
212	Harbouring an offender, if the offence is capital	May arrest without warrant	do.	do.	do.	Imprisonment for five years, and fine
212	If punishable with imprisonment for life, or with imprisonment for ten years	do.	do.	do.	do.	Imprisonment for three years, and fine
212	If punishable with imprisonment for one year and not for ten years	do.	do.	do.	do.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(cont.)						
213	Taking gift, <i>etc.</i> , to screen an offender from punishment, if the offence is capital	Shall not arrest without warrant	do.	do.	do.	Imprisonment for seven years, and fine
213	If punishable with imprisonment for life, or with imprisonment for ten years	do.	do.	do.	do.	Imprisonment for three years, and fine
213	If with imprisonment for less than ten years	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both
214	Offering gift or restoration of property in consideration of screening offender if the offence is capital	do.	do.	do.	do.	Imprisonment for seven years, and fine
214	If punishable with imprisonment for life, or with imprisonment for ten years	do.	do.	do.	do.	Imprisonment for three years, and fine
214	If with imprisonment for less than ten years	do.	do.	do.	do.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both

215	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence is capital	May arrest without warrant	do.	do.	do.	Imprisonment for seven years, and fine
216	If punishable with imprisonment for life, or with imprisonment for ten years	do.	do.	do.	do.	Imprisonment for three years, with or without fine
216	If punishable with imprisonment for one year, and not for ten years	do.	do.	do.	do.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both
216A	Harbouring robbers or gang robbers	do.	do.	do.	do.	Imprisonment for seven years, and fine
217	Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture	Shall not arrest without warrant	Summons	do.	do.	Imprisonment for two years, or fine, or both
218	Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture	do.	Warrant	do.	do.	Imprisonment for three years, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(cont.)

219	Public servant in a judicial proceeding corruptly making or pronouncing an order, report, verdict or decision which he knows to be contrary to law	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for seven years, or fine, or both
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence is capital	do.	do.	do.	do.	Imprisonment for seven years, with or without fine
221	If punishable with imprisonment for life, or imprisonment for ten years	do.	do.	do.	do.	Imprisonment for three years, with or without fine
221	If with imprisonment for less than ten years	do.	do.	do.	do.	Imprisonment for two years, with or without fine
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court, if under sentence of death	do.	do.	Not bailable	do.	Imprisonment for twenty years, with or without fine

222	If under sentence of imprisonment for twenty years	do.	do.	do.	do.	Imprisonment for seven years, with or without fine
222	If under sentence of imprisonment for less than ten years, or lawfully committed to custody	do.	do.	Bailable	do.	Imprisonment for three years, or fine, or both
223	Escape from confinement negligently suffered by a public servant	do.	Summons	do.	do.	Imprisonment for two years, or fine, or both
224	Resistance or obstruction by a person to his lawful apprehension	May arrest without warrant	Warrant	do.	do.	do.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody	do.	do.	Not bailable	do.	do.
225	If charge with an offence punishable with imprisonment for twenty years	do.	do.	do.	do.	Imprisonment for three years, and fine
225	If charge with a capital offence	do.	do.	do.	do.	Imprisonment for seven years, and fine
225	If the person is sentenced to imprisonment for ten years or upwards	do.	do.	do.	do.	do.

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(cont.)

225	If under sentence of death	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and fine
225A	Intentional omission to apprehend on part of a public servant bound by law to apprehend any person in a case not provided for in section 221, 222 or 223	do.	do.	Bailable	do.	Imprisonment for three years, or fine, or both
225A	Negligent omission to do same	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
225A	Resistance or obstruction by a person to the lawful apprehension of himself or any other person in a case not otherwise provided for	do.	Summons	do.	do.	Imprisonment for six months, or fine, or both
225B	Unspecified illegal act or omission	do.	do.	do.	do.	Imprisonment for twelve months, or fine of two thousand ringgit, or both
227	Violation of condition of remission of punishment	Shall not arrest without warrant	do.	Not bailable	do.	Punishment of original sentence; or, if part of the punishment has been undergone, the residue

228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding	do.	do.	Bailable	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
229	Personation of an assessor	do.	do.	do.	do.	Imprisonment for two years, or fine, or both

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

231	<i>(Deleted)</i>					
232	Counterfeiting, or performing any part of the process of counterfeiting current coin	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and fine
233	<i>(Deleted)</i>					
234	Making, buying or selling instrument for the purpose of counterfeiting current coin	do.	do.	do.	do.	Imprisonment for seven years, and fine
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin	do.	do.	do.	do.	Imprisonment for ten years, and fine
236	Abetting in Malaysia the counterfeiting out of Malaysia of coin	do.	do.	do.	do.	The punishment provided for abetting the counterfeiting of such coin within Malaysia

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
CHAPTER XII—OFFENCE RELATING TO COIN AND GOVERNMENT STAMPS—(cont.)						
237	<i>(Deleted)</i>					
238	Import or export of counterfeits of current coin, knowing the same to be counterfeit	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and fine
239	<i>(Deleted)</i>					
240	Delivery of coin, possessed with the knowledge that it is counterfeit	do.	do.	do.	do.	Imprisonment for ten years, and fine
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit	do.	do.	do.	do.	Imprisonment for five years, and fine
242	<i>(Deleted)</i>					
243	Possession of current coin by a person who knew it to be counterfeit when he became possessed of it	do.	do.	do.	do.	Imprisonment for seven years, and fine
246	<i>(Deleted)</i>					
247	Fraudulently diminishing the weight or altering the composition of current coin	do.	do.	do.	do.	Imprisonment for seven years, and fine

248	<i>(Deleted)</i>					
249	Altering appearance of current coin with intent that it shall pass as a coin of a different description	do.	do.	do.	do.	Imprisonment for seven years, and fine
250	<i>(Deleted)</i>					
251	Delivery of current coin possessed with the knowledge that it is altered	do.	do.	do.	do.	Imprisonment for ten years, and fine
252	<i>(Deleted)</i>					
253	Possession of current coin by a person who knew it to be altered when he became possessed of it	do.	do.	do.	do.	Imprisonment for five years, and fine
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered	do.	do.	do.	do.	Imprisonment for ten years, and fine
255	Counterfeiting a Government stamp	do.	do.	Bailable	do.	Imprisonment for twenty years, and fine
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp	do.	do.	do.	do.	Imprisonment for seven years, and fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XII—OFFENCE RELATING TO COIN AND GOVERNMENT STAMPS—(cont.)

257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for seven years, and fine
258	Sale of counterfeit Government stamp	do.	do.	do.	do.	do.
259	Having possession of a counterfeit Government stamp	do.	do.	do.	do.	do.
260	Using as genuine a Government stamp known to be counterfeit	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government	do.	do.	do.	do.	Imprisonment for three years, or fine, or both
262	Using a Government stamp known to have been used before	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
263	Erasure of mark denoting that stamp has been used	do.	do.	do.	do.	Imprisonment for three years, or fine, or both

CHAPTER XIII—OFFENCES RELATING TO WEIGHTS AND MEASURES

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for one year, or fine, or both
265	Fraudulent use of false weight or measure	do.	do.	do.	do.	do.
266	Being in possession of false weights or measures for fraudulent use	do.	do.	do.	do.	do.
267	Making or selling false weights or measures for fraudulent use	do.	do.	do.	do.	do.

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life	May arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for six months, or fine, or both
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
271	Knowingly disobeying any quarantine rule	Shall not arrest without warrant	do.	do.	do.	Imprisonment for six months, or fine, or both
272	Adulterating food or drink intended for sale so as to make the same noxious	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—(cont.)

273	Selling any food or drink as food and drink knowing the same to be noxious	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for six months, or fine of two thousand ringgit, or both
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious	do.	do.	do.	do.	do.
275	Offering for sale, or issuing from a dispensary any drug or medical preparation known to have been adulterated	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit or both
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation	do.	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
277	Defiling the water of a public spring or reservoir	May arrest without warrant	do.	do.	do.	Imprisonment for three months, or fine of one thousand ringgit, or both

278	Making atmosphere noxious to health	Shall not arrest without warrant	do.	do.	do.	Fine of one thousand ringgit
279	Driving or riding on a public way so rashly or negligently as to endanger human life, <i>etc.</i>	May arrest without warrant	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
280	Navigating any vessel so rashly or negligently as to endanger human life, <i>etc.</i>	do.	do.	do.	do.	do.
281	Exhibition of a false light, mark or buoy	do.	Warrant	do.	do.	Imprisonment for seven years, or fine, or both
282	Conveying for hire any person by water in a vessel in such a state or so loaded as to endanger his life	do.	Summons	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
283	Causing danger, obstruction or injury in any public way or line of navigation	do.	do.	do.	do.	Fine of four hundred ringgit
284	Dealing with any poisonous substance so as to endanger human life, <i>etc.</i>	Shall not arrest without warrant	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both
285	Dealing with fire or any combustible matter so as to endanger human life, <i>etc.</i>	May arrest without warrant	do.	do.	do.	Imprisonment for six months, or fine of two thousand ringgit, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—(cont.)						
286	So dealing with any explosive substance	May arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment for six months, or fine of two thousand ringgit, or both
287	So dealing with any machinery	Shall not arrest without warrant	do.	do.	do.	do.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to put it down or repair it	do.	do.	do.	do.	do.
289	A person omitting to take order with any animal in his possession so as to guard against danger to human life or of grievous hurt from such animal	May arrest without warrant	do.	do.	do.	do.
290	Committing a public nuisance	Shall not arrest without warrant	do.	do.	do.	Fine of four hundred ringgit
291	Continuance of nuisance after injunction to discontinue	May arrest without warrant	do.	do.	do.	Imprisonment for six months, or fine, or both

292	Sale, <i>etc.</i> , of obscene objects to young person	do.	Warrant	do.	do.	Imprisonment for three years, or fine, or both
293	Having in possession obscene books, <i>etc.</i> , for sale or exhibition	do.	do.	do.	do.	Imprisonment for five years, or fine, or both
294	Obscene songs	do.	do.	do.	do.	Imprisonment for three months, or fine, or both

CHAPTER XV—OFFENCES RELATING TO RELIGION

295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons	May arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for two years, or fine, or both
296	Causing a disturbance to an assembly engaged in religious worship	do.	do.	do.	do.	Imprisonment for one year, or fine, or both
297	Trespassing in place of worship or sepulchre, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse	do.	do.	do.	do.	Imprisonment for one year, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XV—OFFENCES RELATING TO RELIGION—(cont.)

298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight of any person with intention to wound his religious feeling	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for one year, or fine, or both
298A	Causing, etc., disharmony, disunity, or feelings of enmity, hatred or ill will or prejudicing, etc., the maintenance of harmony or unity, on grounds of religion	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for five years

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY

Offences Affecting Life

302	Murder	May arrest without warrant	Warrant	Not bailable	Not compoundable	Death
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	do.	do.	do.	do.	Imprisonment for thirty years, and fine

304	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	do.	do.	do.	do.	Imprisonment for ten years, or fine, or both
304A	Causing death by rash or negligent act	do.	do.	Bailable	do.	Imprisonment for two years, or fine, or both
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated	do.	do.	Not bailable	do.	Death, or imprisonment for twenty years, and fine
306	Abetting the commission of suicide	do.	do.	do.	do.	Imprisonment for ten years, and fine
307	Attempt to murder	do.	do.	do.	do.	do.
307	If such act cause hurt to any person	do.	do.	do.	do.	Imprisonment for twenty years
307	Attempt by life convict to murder, if hurt is caused	do.	do.	do.	do.	Death
308	Attempt to commit culpable homicide	do.	do.	Bailable	do.	Imprisonment for three years, or fine, or both
308	If such act cause hurt to any person	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(cont.)

Offences Affecting Life—(cont.)

309	Attempt to commit suicide	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for one year, or fine, or both
309B	Infanticide	do.	do.	Not bailable	do.	Imprisonment for twenty years, and fine

Causing Miscarriage; Injuries to Unborn Children; Exposure of Infants and Concealment of Births

312	Causing miscarriage	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for three years, or fine, or both
312	If the woman is quick with child	do.	do.	do.	do.	Imprisonment for seven years, and fine
313	Causing miscarriage without woman's consent	do.	do.	Not bailable	do.	Imprisonment for twenty years, and fine
314	Death caused by an act done with intent to cause miscarriage	do.	do.	do.	do.	Imprisonment for ten years, and fine
314	If act done without woman's consent	do.	do.	do.	do.	Imprisonment for twenty years
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth	do.	do.	do.	do.	Imprisonment for ten years, or fine, or both

316	Causing death of a quick unborn child by an act amounting to culpable homicide	do.	do.	do.	do.	Imprisonment for ten years, and fine
317	Exposure of a child under twelve years of age by parent or person having care of it, with intention of wholly abandoning it	May arrest without warrant	do.	Bailable	do.	Imprisonment for seven years, or fine, or both
318	Concealment of birth by secret disposal of dead body	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
<i>Hurt</i>						
323	Voluntarily causing hurt	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for one year, or fine of two thousand ringgit, or both
324	Voluntarily causing hurt by dangerous weapons or means	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for ten years, or fine, or whipping, or any two of such punishments
325	Voluntarily causing grievous hurt	do.	Summons	Bailable	Compoundable when permission is given	Imprisonment for seven years, and fine
326	Voluntarily causing grievous hurt by dangerous weapons or means	do.	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and fine or whipping
326A	Causing hurt by spouse	do.	do.	do.	do.	Imprisonment for a term twice as long as the maximum term for which he would have been liable on conviction for that offence under the relevant section

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(cont.)

Hurt—(cont.)

327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence	May arrest without warrant	Warrant	Not bailable	Not Compoundable	Imprisonment for ten years, and fine or whipping
328	Administering stupefying drug with intent to cause hurt, etc.	do.	do.	do.	do.	Imprisonment for ten years, and fine
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence	do.	do.	do.	do.	Imprisonment for twenty years, and fine or whipping
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	do.	do.	Bailable	do.	Imprisonment for seven years, and fine
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	do.	do.	Not bailable	do.	Imprisonment for ten years, and fine

332	Voluntarily causing hurt to deter public servant from his duty	do.	do.	Bailable	do.	Imprisonment for three years, or fine, or both
333	Voluntarily causing grievous hurt to deter public servant from his duty	do.	do.	Not bailable	do.	Imprisonment for ten years, and fine
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for one month, or fine of one thousand ringgit, or both
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	May arrest without warrant	do.	do.	Compoundable when permission is given	Imprisonment for four years, or fine of four thousand ringgit, or both
336	Doing any act which endangers human life or the personal safety of others	do.	do.	do.	Not compoundable	Imprisonment for three months, or fine of five hundred ringgit, or both
337	Causing hurt by an act which endangers human life, etc.	do.	do.	do.	Compoundable when permission is given	Imprisonment for six months, or fine of one thousand ringgit, or both
338	Causing grievous hurt by an act which endangers human life, etc.	do.	do.	do.	do.	Imprisonment for two years, or fine of two thousand ringgit, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(cont.)						
<i>Wrongful Restraint and Wrongful Confinement</i>						
341	Wrongly restraining any person	May arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for one month, or fine of one thousand ringgit, or both
342	Wrongly confining any person	do.	do.	do.	do.	Imprisonment for one year, or fine of two thousand ringgit, or both
343	Wrongfully confining for three or more days	do.	do.	do.	Not compoundable	Imprisonment for two years, or fine, or both
344	Wrongfully confining for ten or more days	do.	do.	do.	do.	Imprisonment for three years, and fine
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation	Shall not arrest without warrant	do.	do.	do.	Imprisonment for two years, in addition to imprisonment under any other section
346	Wrongful confinement in secret	May arrest without warrant	do.	do.	do.	do.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for three years, and fine

348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, <i>etc.</i>	do.	do.	do.	do.	do.
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Criminal Force and Assault

352	Assault or use of criminal force otherwise than on grave provocation	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for three months, or fine of one thousand ringgit, or both
352A	Using criminal force by spouse	do.	do.	do.	do.	Imprisonment which may extend to six months, or fine which may extend to two thousand ringgit, or both
353	Assault or use of criminal force to deter a public servant from discharge of his duty	May arrest without warrant	Warrant	do.	Not compoundable	Imprisonment for two years, or fine, or both
354	Assault or use of criminal force to a woman with intent to outrage her modesty	do.	do.	do.	do.	Imprisonment for ten years, or fine, or whipping, or any two of such punishments
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation	Shall not arrest without warrant	Summons	do.	Compoundable	Imprisonment for two years, or fine, or both
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for two years, or fine, or whipping, or any two of such punishments

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(cont.)

Wrongful Force and Assault—(cont.)

357	Assault or use of criminal force in attempt wrongfully to confine a person	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for one year, or fine of two thousand ringgit, or both
358	Assault or use of criminal force on grave and sudden provocation	Shall not arrest without warrant	Summons	do.	Compoundable	Imprisonment for one month, or fine of four hundred ringgit, or both

Kidnapping, Abduction, Slavery and Forced Labour

363	Kidnapping	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for seven years, and fine
364	Kidnapping or abducting in order to murder	do.	do.	do.	do.	Death, or imprisonment for thirty years, and whipping
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person	do.	do.	do.	do.	Imprisonment for seven years, and fine
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for ten years, and fine
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, <i>etc.</i>	do.	do.	do.	do.	do.

368	Concealing or keeping in confinement a kidnapped person	do.	do.	do.	do.	Punishment for kidnapping or abduction
369	Kidnapping or abducting a child with intent to take property from the person of the child	do.	do.	do.	do.	Imprisonment for seven years, and fine
370	Buying or disposing of any person as a slave	Shall not arrest without warrant	do.	Bailable	do.	do.
371	Habitual dealing in slaves	May arrest without warrant	do.	Not bailable	do.	Imprisonment for twenty years, and fine
372	Exploiting any person for purposes of prostitution	do.	do.	do.	do.	Imprisonment for fifteen years and whipping, and fine
372A.	Persons living on or trading in prostitution	do.	do.	do.	do.	do.
372B.	Soliciting for purposes of prostitution	do.	do.	do.	do.	Imprisonment for one year, or fine, or both
373	Suppression of brothels	do.	do.	do.	do.	Imprisonment for fifteen years, and fine
374	Unlawful compulsory labour	do.	do.	Bailable	Compoundable	Imprisonment for one year, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(cont.)

Hostage-Taking

374A	Hostage-taking	May arrest without warrant	Warrant	Not bailable	Not compoundable	Death; or imprisonment for not less than seven years but not exceeding thirty years, and fine
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Rape, Incest and Unnatural Offences

375A	Husband causing hurt in order to have sexual intercourse	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for five years
375B	Gang rape	do.	do.	do.	do.	Imprisonment for not less than ten years, and not more than thirty years
376(1)	Rape	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and whipping
376(2)	Aggravated rape	do.	do.	do.	do.	Imprisonment for not less than ten years and not more than thirty years, and whipping
376(3)	Incestuous rape	do.	do.	do.	do.	Imprisonment for not less than eight years and not more than thirty years, and whipping not less than ten strokes

376(4)	Causing death while committing or attempting to commit rape	do.	do.	do.	do.	Death or imprisonment for not less than fifteen years and not more than thirty years and whipping not less than ten strokes
376B	Incest	do.	do.	do.	do.	Imprisonment for not less than ten years and not more than thirty years, and whipping
377	Buggery with an animal	do.	do.	do.	do.	Imprisonment for twenty years, and fine, or whipping
377B	Carnal intercourse against the order of nature	do.	do.	do.	do.	Imprisonment for twenty years, and whipping
377C	Carnal intercourse against the order of nature without consent, etc.	do.	do.	do.	do.	Imprisonment for not less than five years and not more than twenty years, and whipping
377CA	Sexual connection by object	do.	do.	do.	do.	Imprisonment for not less than five years and not more than thirty years, and whipping
377D	Outrage on decency	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for two years

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(cont.)						
<i>Rape, Incest and Unnatural Offences—(cont.)</i>						
377E	Inciting a child to an act of gross indecency	do.	do.	do.	do.	Imprisonment for not less than three years and not more than fifteen years, and whipping
CHAPTER XVII—OFFENCES AGAINST PROPERTY						
<i>Theft</i>						
379	Theft	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for seven years, or fine, or both; for a second or subsequent offence imprisonment, and fine, or whipping
379A(1)	Punishment for theft of a motor vehicle	do.	do.	do.	do.	Imprisonment for not less than one year and not more than seven years, and fine
380	Theft in a building, tent, or vessel	do.	do.	do.	do.	Imprisonment for ten years, and fine; for a second or subsequent offence imprisonment, and fine, or whipping

381	Theft by clerk or servant of property in possession of master or employer	do.	do.	do.	do.	Imprisonment for seven years, and fine
382	Theft, preparation having been made for causing death or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it	do.	do.	do.	do.	Imprisonment for ten years, and fine, or whipping
<i>Extortion</i>						
384	Extortion	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for ten years, or fine, or whipping, or any two of such punishments
385	Putting or attempting to put in fear of injury, in order to commit extortion	do.	do.	do.	do.	Imprisonment for seven years, and fine, or whipping,
386	Extortion by putting a person in fear of death or grievous hurt	do.	do.	do.	do.	Imprisonment for fourteen years, and fine, or whipping
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion	do.	do.	do.	do.	Imprisonment for ten years, and fine or whipping
388	Extortion by threat of accusation of an offence punishable with death, imprisonment for life, or imprisonment for ten years	do.	do.	do.	do.	Imprisonment for ten years and fine or whipping; if the offence threatened be an unnatural offence imprisonment for twenty years
389	Putting a person in fear of accusation of offence punishable with death, imprisonment for life, or with imprisonment for ten years, in order to commit extortion	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for ten years, and fine or whipping; if the offence threatened be an unnatural offence, imprisonment for twenty years

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
<i>Robbery and Gang Robbery</i>						
392	Robbery	May arrest without Warrant	Warrant	Not bailable	Not compoundable	Imprisonment for ten years, and fine
392	If committed on the highway between sunset and sunrise	do.	do.	do.	do.	Imprisonment for ten fourteen years, amd fine, or whipping
393	Attempt to commit robbery	do.	do.	do.	do.	Imprisonment for seven years, and fine
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in the robbery	do.	do.	do.	do.	Imprisonment for twenty years, and fine, or whipping
395	Gang robbery	do.	do.	do.	do.	Imprisonment for twenty years, and whipping
396	Gang robbery with murder	do.	do.	do.	do.	Death, imprisonment for thirty years, and whipping
397	Robbery when armed or with attempt to cause death or grievous hurt	do.	do.	do.	do.	Whipping in addition to the punishment under any other section
399	Making preparation to commit gang robbery	do.	do.	do.	do.	Imprisonment for ten years, and whipping
400	Belonging to a gang of persons associated for the purpose of habitually	do.	do.	do.	do.	Imprisonment for twenty years, and whipping

	committing gang robbery					
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts	do.	do.	do.	do.	Imprisonment for seven years, and fine, or whipping
402	Being one of five or more persons assembled for the purpose of committing gang robbery	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for seven years, and fine, or whipping
<i>Criminal Misappropriation of Property</i>						
403	Dishonest misappropriation of movable property, or converting it to one's own use	Shall not arrest without warrant	Warrant	Bailable	Not Compoundable	Imprisonment for not less than six months and not more than five years, and whipping, and fine
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it	do.	do.	do.	do.	do.
404	If by clerk or person employed by deceased	do.	do.	do.	do.	Imprisonment for not less than one year and not more than ten years, and whipping, and fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
406	Criminal breach of trust	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for ten years, and whipping, and fine
407	Criminal breach of trust by a carrier, wharfinger, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for not less than one year, and not more than ten years, and whipping, and fine
408	Criminal breach of trust by a clerk or servant	do.	do.	do.	do.	Imprisonment for not less than one year, and not more than fourteen years, and whipping, and fine
409	Criminal breach of trust by public servant, or by banker, merchant, or agent, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for not less than two years and not more than twenty years, and whipping, and fine
<i>Receiving Stolen Property</i>						
411	Dishonestly receiving stolen property knowing it to be stolen	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for five years, or fine, or both; if the stolen property is a motor vehicle or any component part of it, imprisonment for not less than six months and not more than five years, and fine

411A	Receiving benefit derived from criminal activities of organized criminal group	do.	do.	do.	do.	Imprisonment which may extend to six years
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CHAPTER XVII—OFFENCES AGAINST PROPERTY—(cont.)

Receiving Stolen Property—(cont.)

412	Dishonestly receiving stolen property, knowing that it was obtained by gang robbery	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and fine
413	Habitually dealing in stolen property	do.	do.	do.	do.	do.
414	Assisting in concealment, or disposal of stolen property, knowing it to be stolen	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both; if the stolen property is a motor vehicle or any component part of it, less than six months and not more than seven years, and fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
<i>Cheating</i>						
417	Cheating	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for five years, or fine, or both
418	Cheating a person whose interest the offender was bound either by law or by legal contract to protect	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both
419	Cheating by personation	May arrest without warrant	do.	do.	do.	do.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security	do.	do.	do.	do.	Imprisonment for not less than one year and not more than ten years, and whipping, and fine
<i>Fraudulent Deeds and Dispositions of Property</i>						
421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for five years, or fine, or both

422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender	do.	do.	do.	do.	do.
423	Fraudulent execution of deed of transfer containing a false statement of consideration	do.	do.	do.	do.	do.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled	do.	do.	do.	do.	do.

CHAPTER XVII—OFFENCES AGAINST PROPERTY—(cont.)

Mischief

426	Mischief	May arrest without warrant	Warrant	Not bailable	Compoundable when the only loss or damage caused is loss or damage to a private person	Imprisonment for five years, or fine, or both
427	Mischief and causing damage to the amount of twenty-five ringgit or upwards	May arrest without warrant	Warrant	Not bailable	Compoundable when the only loss or damage caused is loss or damage to a private person	Imprisonment for not less than one year and not more than five years, or fine, or both
428	Mischief by killing, poisoning, maiming, or rendering useless any animal of the value of five ringgit or upwards	do.	do.	Bailable	Not compoundable	Imprisonment which may extend to three years, or with fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
429	<i>(Deleted)</i>					
430	Mischief by causing diminution of supply of water for agricultural purposes, <i>etc.</i>	do.	do.	Not bailable	do.	Imprisonment for not less than five years and not more than thirty years
430A	Mischief affecting railway engine, train, <i>etc.</i>	do.	do.	Bailable	do.	Imprisonment for twenty years, and fine, or whipping
431	Mischief by injury to public road, bridge, navigable river or channel and rendering it impossible or less safe for travelling or conveying property	do.	do.	do.	do.	Imprisonment for five years, or fine, or both
431A	Mischief by injury to telegraph cable wire, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for two years, or fine, or both
432	Mischief by causing inundation, or obstruction to public drainage, attended with damage	do.	do.	do.	do.	Imprisonment for five years, or fine, or both
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both

434	Mischief by destroying or moving, <i>etc.</i> , a landmark fixed by public authority	Shall not arrest without warrant	do.	do.	do.	Imprisonment for one year, or fine, or both
435	Mischief by fire or explosive substance with intent to cause damage to amount of fifty ringgit or upwards	May arrest without warrant	do.	do.	do.	Imprisonment for fourteen years, and fine

CHAPTER XVII—OFFENCES AGAINST PROPERTY—(*cont.*)

Mischief—(cont.)

436	Mischief by fire or explosive substance with intent to destroy a house, <i>etc.</i>	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and fine
437	Mischief with intent to destroy or make unsafe a decked vessel or vessel of twenty tons burden	do.	do.	do.	do.	Imprisonment for ten years, and fine
438	The mischief described in the last section when committed by fire or any explosive substance	do.	do.	do.	do.	Imprisonment for twenty years, and fine
439	Running vessel ashore with intent to commit theft, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for ten years, and fine
440	Mischief committed after preparation made for causing death or hurt, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for five years, and fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
<i>Criminal Trespass</i>						
447	Criminal trespass	May arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for six months, or fine of three thousand ringgit, or both
448	House trespass	do.	Warrant	do.	do.	Imprisonment for three years, or fine of five thousand ringgit, or both
449	House trespass in order to the commission of an offence punishable with death	do.	do.	Not bailable	Not compoundable	Imprisonment for twenty years, and fine
450	House trespass in order to the commission of an offence punishable with penal servitude for life	do.	do.	do.	do.	Imprisonment for not exceeding ten years, and fine
451	House trespass in order to the commission of an offence punishable with imprisonment	do.	do.	Bailable	do.	Imprisonment for seven years, and fine

451	If the offence is theft	do.	do.	Not bailable	do.	Imprisonment for seven years, and fine
452	House trespass, having made preparation for causing hurt, assault, <i>etc.</i>	do.	do.	do.	do.	do.
453	Lurking house trespass or housebreaking	do.	do.	do.	do.	Imprisonment for three years, and fine; for every second or subsequent offence imprisonment, and fine, or whipping

CHAPTER XVII—OFFENCES AGAINST PROPERTY—(cont.)

Criminal Trespass—(cont.)

454	<i>(Deleted)</i>					
454	<i>(Deleted)</i>					
454	<i>(Deleted)</i>					
455	Lurking house trespass or housebreaking after preparation made for causing hurt, assault, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for fourteen years, and fine, or whipping
456	<i>(Deleted)</i>					
457	Lurking house trespass or housebreaking in order to the commission of an offence punishable with imprisonment	do.	do.	do.	do.	Imprisonment for five years, and fine

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
457	If the offence is theft	do.	do.	do.	do.	Imprisonment for fourteen years, and fine
457	For every second or subsequent offence	do.	do.	do.	do.	Imprisonment as above, and fine, or whipping
458	(Deleted)					
459	Grievous hurt caused while committing lurking house trespass or housebreaking	do.	do.	do.	do.	Imprisonment for twenty years, and fine, or whipping
460	Death or grievous hurt caused by one of several persons jointly concerned in housebreaking <i>etc.</i>	do.	do.	do.	do.	Imprisonment for thirty years, and fine
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	do.	do.	Bailable	do.	Imprisonment for two years, or fine, or both

462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same	do.	do.	do.	do.	Imprisonment for three years, or fine, or both
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CHAPTER XVIII—OFFENCES RELATING TO DOCUMENTS AND TO CURRENCY NOTES
AND BANK NOTES

465	Forgery	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment for two years, or fine, or both
466	Forgery of a record of a Court or of a Register of Births, <i>etc.</i> , kept by a public servant	do.	do.	Not bailable	do.	Imprisonment for seven years, and fine
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, <i>etc.</i>	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for twenty years, and fine
468	Forgery for the purpose of cheating	do.	do.	do.	do.	Imprisonment for seven years, and fine
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose	do.	do.	Bailable	do.	Imprisonment for three years, and fine
471	Using as genuine a forged document which is known to be forged	do.	do.	do.	do.	Punishment for forgery

1 Penal Code section	2 Offence	3 Whether the police may ordinarily arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Maximum punishment under the Penal Code
CHAPTER XVIII—OFFENCES RELATING TO DOCUMENTS AND TO CURRENCY NOTES AND BANK NOTES—(cont.)						
472	Marking or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit	do.	do.	Not bailable	do.	Imprisonment for twenty years, and fine
473	Marking or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit	do.	do.	do.	do.	Imprisonment for seven years, and fine
474	Having possession of a document knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Penal Code	do.	do.	do.	do.	do.

474	If the document is one of the description mentioned in section 467 of the Penal Code	do.	do.	do.	do.	Imprisonment for twenty years, and fine
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Penal Code, or possessing counterfeit marked material	do.	do.	do.	do.	Imprisonment for twenty years, and fine

CHAPTER XVIII—OFFENCES RELATING TO DOCUMENTS AND TO
CURRENCY NOTES BANK NOTES—(cont.)

476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Penal Code, or possessing counterfeit marked material	Shall not arrest without warrant	Warrant	Not bailble	Not compoundable	Imprisonment for seven years, and fine
477	Fraudulently destroying or defacing, or attempting destroy or deface, or secreting a will, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for twenty years and fine
477A	Falsification of accounts	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
489A	Forging or counterfeiting currency notes or bank notes	May arrest without warrant	do.	do.	do.	Imprisonment for twenty years, and fine
489B	Using as genuine forged counterfeit currency notes or bank notes	do.	do.	do.	do.	Imprisonment for twenty years, and fine
489C	Possession of forged or counterfeit currency notes or bank notes	do.	do.	do.	do.	Imprisonment for ten years
489D	Making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes	do.	do.	do.	do.	Imprisonment for twenty years, and fine

CHAPTER XIX—CRIMINAL BREACH OF CONTRACTS OF SERVICE

491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment for three months, or fine of four hundred ringgit, or both
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CHAPTER XX—OFFENCES RELATING TO MARRIAGE

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to co-habit with him in that belief	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for ten years, and fine
494	Marrying again during the lifetime of a husband or wife	do.	do.	Bailable	do.	Imprisonment for seven years, and fine
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted	do.	do.	Not bailable	do.	Imprisonment for ten years, and fine

496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not lawfully married	do.	do.	do.	do.	Imprisonment for seven years, and fine
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CHAPTER XX—OFFENCES RELATING TO MARRIAGE —(cont.)

498	Enticing or taking away or detaining with a criminal intent a married woman	Shall not arrest without warrant	Warrant	Bailable	Compoundable	Imprisonment for two years, or fine, or both
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CHAPTER XXI—DEFAMATION

500	Defamation	Shall not arrest without warrant	Warrant	Bailable	Compoundable	Imprisonment for two years, or fine, or both
501	Printing and engraving matter knowing it to be defamatory	do.	do.	do.	do	do.
502	Sales of printed or engraved substance containing defamatory matter, knowing it to contain such matter	do.	do.	do.	do.	do.

CHAPTER XXII—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

504	Insult intended to provoke a breach of the peace	Shall not arrest without warrant	Warrant	Bailable	Compoundable	Imprisonment for two years, or fine, or both
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against public peace	do.	do.	Not bailable	Not compoundable	do.
506	Criminal intimidation	May arrest without warrant	do.	do.	do.	do.
506	If threat be to cause death or grievous hurt, etc.	do.	do.	do.	do.	Imprisonment for seven years, or fine, or both
507	Criminal intimidation by anonymous communication or having taken precaution to conceal when the threat comes	do.	do.	Bailable	do.	Imprisonment for two years, in addition to the punishment under above section
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure	Shall not arrest without warrant	do.	do.	do.	Imprisonment for one year, or fine, or both

1	2	3	4	5	6	7
<i>Penal Code section</i>	<i>Offence</i>	<i>Whether the police may ordinarily arrest without warrant or not</i>	<i>Whether a warrant or a summons shall ordinarily issue in the first instance</i>	<i>Whether bailable or not</i>	<i>Whether compoundable or not</i>	<i>Maximum punishment under the Penal Code</i>
509	Uttering any word or making any gesture intended to insult the modesty of a person, <i>etc.</i>	do.	do.	do.	do.	Imprisonment for five years, or fine, or both
510	Appearing in a public place <i>etc.</i> , in a state of intoxication, and causing annoyance to any person	do.	do.	do.	do.	Imprisonment for ten days, or fine of twenty ringgit, or both

ATTEMPT TO COMMIT OFFENCES

511	Attempting to commit offences punishable with imprisonment, and in such attempt doing any act towards the commission of the offence	According as the offence is one in respect of which the Police may arrest without warrant or not	According as the offence is one in respect of which a summons or warrant shall ordinarily issue	According as the offence contemplated by the offender is bailable or not	Compoundable when the offence attempted is compoundable	The punishment provided for the offence: imprisonment not to exceed one-half of the longest term provided for the offence
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OFFENCES AGAINST LAWS OTHER THAN THE PENAL CODE

If punishable with death, or imprisonment for seven years or upwards	May arrest without warrant	Warrant	Not bailable	Not compoundable
If punishable with imprisonment for three years and upwards, but less than seven years	do.	do.	do.	do.
If punishable with imprisonment for less than three years	Shall not arrest without warrant	Summons	Bailable	do.
If punishable with fine only	do.	do.	do.	do.

FORMS

SECOND SCHEDULE

FORMS

FORM 1

[Section 34]

SUMMONS TO AN ACCUSED PERSON

To of .

Whereas your attendance is necessary to answer to a charge of you are hereby required to appear on the day of at a.m/p.m in person [or by advocate, as the case may be] before the Magistrate’s Court at .

Dated this day of 20 .

(Seal)

Magistrate

FORM 2

[Sections 38 and 39]

WARRANT OF ARREST

To the Inspector General of Police, and all other Police Officers.

Whereas of stands charged with the offence of you are directed to arrest the said and to produce him before the Magistrate’s Court at .

Dated this day of 20 .

(Seal)

Magistrate

This Warrant may be indorsed as follows—

If the said shall give bail himself in the sum of ringgit, with one surety in the sum of ringgit [or two sureties each in the sum of ringgit] to attend before the Court on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of 20 .

(Seal)

Magistrate

FORM 3

[Section 390]

BOND AND BAIL BOND AFTER ARREST UNDER A WARRANT

I _____ of _____, being brought before the Magistrate's Court at _____ under a warrant issued to compel my appearance to answer to a charge of _____ do hereby bind myself to attend in the Magistrate's Court at _____ on the _____ day of _____ next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit to the Yang di-Pertuan Agong the sum of _____ ringgit.

Dated this _____ day of _____ 20____.

Signature

I [or We] do hereby declare myself [or ourselves] surety [or sureties] for the above named _____ of _____, that he shall attend before the Magistrate's Court at _____ on the _____ day of _____ next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I [or we] hereby bind myself [or ourselves, jointly and severally] to forfeit to the Yang di-Pertuan Agong the sum of _____ ringgit.

Dated this _____ day of _____ 20____.

Signature

FORM 4

[Section 44]

PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED

Whereas complaint has been made before me that _____ of _____ has committed [or is suspected to have committed] the offence of _____ punishable under section _____ of the Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said _____ cannot be found; and whereas it has been shown to my satisfaction that the said _____ has absconded [or is concealing himself to avoid the service of the said warrant, as the case may be]:

Proclamation is hereby made that the said _____ of _____ is required to appear before the Magistrate's Court at _____ to answer the said complaint within _____ days from this date.

Dated this _____ day of _____ 20____.

(Seal)

Magistrate

PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS

Whereas complaint has been made before me that of has committed [or is suspected to have committed] the offence of and a warrant has been issued to compel the attendance of of before the Magistrate’s Court at to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said cannot be served, and it has been shown to my satisfaction that he has absconded [or is concealing himself to avoid the service of the said warrant]:

Proclamation is hereby made that the said is required to appear before the Magistrate’s Court at on the day of next at a.m./p.m. to be examined touching the offence complained of.

Dated this day of 20 .

(Seal)

Magistrate

ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS

To the Police Officer in charge of the Police District of

Whereas a warrant has been duly issued to compel the attendance of of to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to the satisfaction of the Court that he has absconded [or is concealing himself to avoid the service of the said warrant]; and thereupon a Proclamation was duly issued and published requiring the said to appear and give evidence at the time and place mentioned therein, and he has failed to appear:

This is to authorize and require you to attach by seizure the movable property belonging to the said to the value of ringgit which you may find within the State and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an indorsement certifying the manner of its execution.

Dated this day of 20 .

(Seal)

Magistrate

WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

To the Inspector General of Police, and all other Police Officers.

Whereas complaint has been made before me that of has [or is suspected to have] committed the offence of and it appears likely that of can give evidence concerning the said complaint; and whereas the Court has good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so:

This is to authorize and require you to arrest the said of and on the day of to bring him before the Magistrate's Court at to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE

To the Chief Police Officer of the State of , and other Police Officers (to be designated by name).

Whereas information has been laid [or complaint has been made] before me of the commission [or suspected commission] of the offence of and it has been made to appear to me that the production of the articles specified in the Schedule below is essential to the enquiry now being made [or about to be made] into the said offence [or suspected offence]:

This is to authorize and require you within the space of days from the date hereof to search for the said articles specified in the Schedule below in the (*describe the house or place, or part thereof, to which the search is to be confined*), and, if found, to produce the same immediately before the Magistrate's Court; returning this warrant, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT

To the Chief Police Officer of the State of _____, and other Police Officer or Officers (designated by name herein).

Whereas information has been laid before me, and on due enquiry thereupon I have been led to believe that the (describe the house or other place) is used as a place for the deposit [or sale] of stolen property [or if for either of the other purposes expressed in the section, state the purpose in the words of the section]:

This is to authorize and require you within the space of _____ days from the date hereof to enter the said house [or other place] with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house [or other place, or if the search is to be confined to a part, specify the part clearly] and to seize and take possession of any property [or documents, or stamps, or seals, or coins, or trade marks, as the case may be]—[Add (when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or trade marks, or counterfeit stamps, or false seals, or counterfeit coin, as the case may be] and immediately to bring before this Court such of the said things as may be taken possession of; returning this warrant, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____ 20_____.

(Seal)

Magistrate

BOND TO KEEP THE PEACE

Whereas I _____ inhabitant of _____ have been called upon to enter into a bond to keep the peace for the term of _____ I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and, in case of my making default therein, I hereby bind myself to forfeit to the Yang di-Pertuan Agong the sum of _____ ringgit.

Dated this _____ day of _____ 20_____.

Signature

FORM 11

[Sections 68 and 69]

BOND FOR GOOD BEHAVIOUR

Whereas I inhabitant of have been called upon to enter into a bond to be of good behaviour to the Yang di-Pertuan Agong and to all persons within Malaysia for the term of I hereby bind myself to be of good behaviour to the Yang di-Pertuan Agong and to all persons within Malaysia during the said term; and in case of my making default therein, I hereby bind myself to forfeit to the Yang di-Pertuan Agong the sum of ringgit.

Dated this day of 20 .

Signature

(When a bond with sureties is to be executed, add):

We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to the Yang di-Pertuan Agong and to all persons within Malaysia during the said term; and in case of his making default therein we hereby bind ourselves jointly and severally to forfeit to the Yang di-Pertuan Agong the sum of ringgit.

Dated this day of 20 .

Signature

FORM 12

[Section 70]

ORDER TO SHOW CAUSE

Whereas information has been received by me that (here set out the substance of the information received).

It is hereby ordered that do attend at the Magistrate's Court at day of 20 , at a.m./p.m. to show cause why he should not be ordered to execute a bond for his good behaviour in the sum of ringgit to be in force for the term of months with sufficient sureties being (here state character and class of sureties required).

Given under my hand and the seal of the Court, this day of 20 .

*(Seal)**Magistrate*

SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE

To of .

Whereas it has been made to appear to me by credible information that (state the substance of the information), and that you are likely to commit a breach of the peace [or by which act a breach of the peace will probably be occasioned], you are hereby required to attend in person [or by an advocate] at the Magistrate's

Court at on the day of , 20 , a.m./p.m., to show cause why you should not be required to enter into a bond for ringgit [when sureties are required, add:—and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of ringgit (each, if more than one)], that you will keep the peace for the term of .

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE

To the Officer in charge of the Prison at .

Whereas of appeared before me in person [or by his authorized agent] on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for ringgit with one surety [or a bond with two sureties each in ringgit], that he the said would keep the peace for the period of . And whereas an order was then made requiring the said to enter into and find such security (state the security ordered when it differs from that mentioned in the summons), and he has failed to comply with the said order:

This is to authorize and require you to receive the said into your custody, together with this warrant, and him safely to keep in prison for the said period of unless he shall, in the meantime, comply with the said order by himself and his surety [or sureties] entering into the said bond, in which case the same shall be received, and the said released; and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

WARRANT OF COMMITMENT ON FAILURE TO FIND
SECURITY FOR GOOD BEHAVIOUR

To the Officer in charge of the Prison at _____ .

Whereas it has been made to appear to me that _____ of _____ has been and is lurking within the District of _____ having no ostensible means of subsistence [or and that he is unable to give any satisfactory account of himself]:

or

Whereas evidence of the general character of _____ of _____ has been adduced before me and recorded, from which it appears that he is a habitual robber [or housebreaker, *etc.*, *as the case may be*].

And whereas an order has been recorded stating the same and requiring the said _____ to furnish security for his good behaviour for the term of _____ by entering into a bond with one surety [*or* two or more sureties, *as the case may be*], himself for _____ ringgit, and the said surety [*or* each of the said sureties] for _____ ringgit, and the said _____ has failed to comply with the said order, and for such default has been adjudged imprisonment for _____ unless the said security be sooner furnished:

This is to authorize and require you to receive the said _____ into your custody, together with this warrant, and him safely to keep in prison for the said period of _____, unless he shall in the meantime comply with the said order by himself and his surety [*or* sureties] entering into the said bond, in which case the same shall be received and the said _____ released; and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____ 20 _____ .

(Seal)

Magistrate

WARRANT TO DISCHARGE A PERSON IMPRISONED ON
FAILURE TO GIVE SECURITY

To the Officer in charge of the Prison at (or other officer in whose custody the person is).

Whereas of was committed to your custody under warrant of this Court, dated the day of , and has since duly given security under section of the Criminal Procedure Code,

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community:

This is to authorize and require you immediately to discharge the said from your custody, unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

ORDER FOR THE REMOVAL OF NUISANCES

To of .

Whereas it has been made to appear to me that you have caused an obstruction [or nuisance] to persons using the public roadway [or other public place] which, etc. (describe the road or public place), by, etc. (state what it is that causes the obstruction or nuisance) and that such obstruction [or nuisance] still exists:

or

Whereas it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of at and that the same is injurious to the public health [or comfort] by reason (state briefly in what manner the injurious effects are caused), and should be suppressed or removed to a different place:

or

Whereas it has been made to appear to me that you are the owner [or are in possession of, or have the control over] a certain tank [or well, or excavation] adjacent to the public way (describe

the thoroughfare) and that the safety of the public is endangered by reason of the said tank [*or well, or excavation*] being without a fence [*or insecurely fenced*]:

or

Whereas, *etc., etc. (as the case may be)*:

I do hereby direct and require you within to or to appear at in the Court of on the day of next, and to show cause why this order shall not be enforced:

or

I do hereby direct and require you within to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, *etc.*:

or

I do hereby direct and require you within to put up a sufficient fence (state the kind of fence and the part to be fenced) or to appear, *etc.*

or

I do hereby direct and require you, *etc., etc. (as the case may be)*.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

NOTICE AND PEREMPTORY ORDER BY MAGISTRATE
AFTER ORDER ABSOLUTE

To of .

Notice is hereby given that an order absolute has been made against you requiring you and you are hereby directed and required to obey the said order within on peril of the penalty provided by section 188 of the Penal Code for disobedience to it.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER
PENDING DECISION

To of .

Whereas a conditional order was made by this Court on the day of 20 , requiring you and it has been made to appear to this Court that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, you are hereby, under section 96 of the Criminal Procedure Code, directed and enjoined forthwith to pending the final decision of the case.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

ORDER OF MAGISTRATE PROHIBITING THE REPETITION,
ETC., OF A NUISANCE

To of .

Whereas it has been made to appear to this Court that, *etc.* (*state the proper recital, guided by Form No. 17 or Form No. 21, as the case may be*):

You are hereby ordered and enjoined not to repeat the said nuisance by again placing, or causing, or permitting to be placed, *etc.* (*as the case may be*).

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

ORDER OF MAGISTRATE TO PREVENT OBSTRUCTION, RIOT, ETC.

To of .

Whereas it has been made to appear to this Court that you are in possession [*or have the management*] of and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road:

or

Whereas it has been made to appear to this Court that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public street, *etc.* (*as the case may be*) and that such procession is likely to lead to a riot or an affray:

or

Whereas, *etc., etc.* (*as the case may be*).

You are hereby ordered not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road.

or

The procession passing along the said street is hereby prohibited, and you are warned and enjoined not to take any part in such procession [*or, as the case recited may require*].

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 22

[Section 99]

ORDER OF MAGISTRATE DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC., IN DISPUTE

Whereas it appears to the undersigned Magistrate on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain situate at the parties were called upon to give in to this Court a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and this Court being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said is true:

It is hereby decided and declared that he is [*or they are*] in possession of the said and entitled to retain such possession until ousted by due course of law, and any disturbance of his [*or their*] possession in the meantime is forbidden.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 23

[Section 100]

WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS
TO THE POSSESSION OF LAND, *ETC.*

To the Chief Police Officer of the State of *[or, To the District Land Administrator*
].

Whereas it having been made to appear to the undersigned Magistrate that a dispute likely to induce a breach of the peace existed between of and of concerning certain situate at , the said parties were thereupon duly called upon to state to this Court in writing their respective claims as to the fact of actual possession of the said . And whereas, upon due enquiry into the said claims, this Court has decided that neither of the said parties was in possession of the said [*or this Court is unable to satisfy itself as to which of the said parties was in possession as aforesaid*]:

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession of it, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained; and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 20 .

(*Seal*)

Magistrate

FORM 24

[Section 101]

ORDER OF MAGISTRATE PROHIBITING THE DOING OF ANYTHING
ON LAND OR WATER

A dispute having arisen concerning the right of use of situate at , possession of which land [*or water*] is claimed exclusively by and it appearing to this Court, on due inquiry into the same, that the said land [*or water*] has been open to the enjoyment of such use by the public [*or if by any individual or a class of persons, describe him or them*], and [*if the use can be enjoyed throughout the year—that the said use has been enjoyed within three months of the institution of the said enquiry, or if the use is enjoyable only at particular seasons, say during the last of the seasons at which the same is capable of being enjoyed*]:

It is hereby ordered that the said or any one in their interest, shall not take [*or retain*] possession of the said land [*or water*] to the exclusion of the enjoyment of the right of use aforesaid, until he [*or they*] shall obtain the decree or order of a competent Court adjudging him [*or them*] to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 25

[Section 118]

BOND TO PROSECUTE OR GIVE EVIDENCE

I of do hereby bind myself to attend at the Magistrate’s Court at , at a.m./p.m. on the day of next, and then and there to give evidence in the matter of a charge of against one A B; and in case of my making default herein, I bind myself to forfeit to the Yang di-Pertuan Agong the sum of ringgit.

Dated this day of 20 .

Signature

FORM 26

[Section 120]

REPORT OF POLICE INVESTIGATION

To the Public Prosecutor.

1. At a.m./p.m. on the day of 20 , I received information by from that a had taken place at and that persons were concerned or suspected of being concerned therein, and that the total amount of property concerned in the report was RM .
2. I proceeded thereupon to take action as detailed in the enclosed investigation diaries.
3. I ascertained the following facts.
4. I examined the following witnesses whose statements accompany this report: persons marked “B” are under a Bond to appear in Court.
5. The following documents accompany this report in addition to the statements of the witnesses:

Investigation Diary No.

6. I am of opinion that the offence of _____ is disclosed and that the following persons are concerned therein.

7. I have reason to believe that the following persons apart from those accused persons not yet arrested can throw light upon the case but I have been unable to examine them for the reasons here stated:

8. The under mentioned articles have been secured or recovered and are to serve as exhibits.

Signature

FORM 27

[Sections 152 and 154]

CHARGES

(1)—CHARGES WITH ONE HEAD

Penal Code:

On section 121

1. That you, on or about the _____ day of _____, at _____, waged war against the Yang di-Pertuan Agong and thereby committed an offence punishable under section 121 of the Penal Code.

On section 124

2. That you, on or about the _____ day of _____, at _____, with the intention of inducing a member of the State Legislative Assembly to refrain from exercising a lawful power as such member, assaulted such member, and thereby committed an offence punishable under section 124 of the Penal Code.

On section 161

3. That you, being a public servant in the _____ Department directly accepted from (*state the name*), for another party (*state the name*) a gratification other than legal remuneration as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Penal Code.

On section 166

4. That you, on or about the day of , at , did [*or omitted to do, as the case may be*] such conduct being contrary to and known by you to be prejudicial to and thereby committed an offence punishable under section 166 of the Penal Code.

On section 193

5. That you, on or about the day of , at , in the course of the trial of before , stated in evidence that which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Penal Code.

On section 304

6. That you, on or about the day of , at , committed culpable homicide not amounting to murder, by causing the death of and thereby committed an offence punishable under section 304 of the Penal Code.

On section 306

7. That you, on or about the day of , at , abetted the commission of suicide by A B, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Penal Code.

On section 325

8. That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Penal Code.

On section 392

9. That you, on or about the day of , at , robbed and thereby committed an offence punishable under section 392 of the Penal Code.

On section 395

10. That you, on or about the day of , at , committed gang-robbery, an offence punishable under section 395 of the Penal Code.

(II)—CHARGES WITH TWO OR MORE HEADS

On section 241

1. *First*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name A B, as genuine, and thereby committed an offence punishable under section 241 of the Penal Code.

Secondly—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name A B, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Penal Code.

On sections 302 and 304

2. *First*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Penal Code.

Secondly—That you, on or about the day of , at , committed culpable homicide not amounting to murder by causing the death of and thereby committed an offence punishable under section 304 of the Penal Code.

On sections 379 and 382

3. *First*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Penal Code.

Secondly—That you, on or about the day of , at , committed theft, having made preparations for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Penal Code.

Thirdly—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Penal Code.

Fourthly—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Penal Code.

Alternative charges on section 193

4. That you, on or about the day of , at , in the course of the inquiry into before , stated in evidence that and that you, on or about the day of , at , in the course of the trial of , before , stated in evidence that one of

which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Penal Code.

(III)—CHARGE FOR THEFT AFTER A PREVIOUS CONVICTION

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Penal Code.

And further that you, before the committing of the said offence, that is to say, on the day of , had been convicted by the at of an offence punishable under Chapter XVII of the Penal Code with imprisonment for a term of three years, that is to say, the offence of housebreaking by night (*describe the offence in the words used in the section under which the accused was convicted*) which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Penal Code.

FORM 28

[Section 172]

FORMAL PART OF CHARGES TRIED BEFORE THE HIGH COURT

A B

You are charged at the instance of the Public Prosecutor, and the charge against you is

Public Prosecutor

FORM 28A

[Section 172C)

APPLICATION FOR PLEA BARGAINING

To the High Court Judge/Sessions Court Judge/Magistrate,

Whereas as Charge/Charges in respect of an offence/offences has/have been preferred against me/us by the Public Prosecutor as follows:

*(A brief description of the offence/offences)
Please attach a copy of the Charge/Charges*

I (*state the full name and the Identity Card no.*), hereby apply to this Court for the said Charge/Charges to be set down for hearing for Plea Bargaining (*state whether in respect of the sentence or the charge*) and the Public Prosecutor to be informed of this application.

I solemnly declare that this application is voluntarily made after understanding the nature and extent of the punishment provided under the law for the offence/offences that I am charged with.

Dated this.....day of20.....

.....
Signature of the Accused Person

Application received by
.....
.....

FORM 29

[Section 173]

WARRANT OF COMMITMENT ON A SENTENCE OF
IMPRISONMENT OR FINE

To the Officer in charge of the Prison at .

Whereas on the day of the (1st, 2nd, 3rd, *as the case may be*) prisoner in Case No. at the Magistrate's Court at was convicted before this Court of the offence of under section [*or* sections] of the Penal Code [*or* of Enactment], and was sentenced to .

This is to authorize and require you, the said Officer, to receive the said into your custody, together with this warrant, and carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Registrar, High Court

WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER
AMENDS BY DISTRESS

To the Officer in charge of the Prison at .

Whereas of has brought against of the complaint that , and the same has been dismissed as frivolous [or vexatious], and the order of dismissal awards payment by the said of of the sum of ringgit as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the movable property of the said and an order has been made for his imprisonment for the period of days, unless the aforesaid sum be sooner paid:

This is to authorize and require you, the said Officer, to receive the said into your custody, together with this warrant, and to 432 of the Criminal Procedure Code, unless the said sum be sooner paid; and on the receipt of it, immediately to set him at liberty, returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

SUMMONS TO A WITNESS

To of .

Whereas complaint has been made before me that of has [or is suspected to have] committed the offence of (state the offence concisely, with time and place) and it appears to me that you are likely to be able to give material evidence respecting the matter of such complaint:

You are hereby summoned to appear before the Magistrate's Court at on the day of next at a.m./p.m., to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that if you shall, without just excuse, neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 32

SUMMONS TO ASSESSORS OR JURORS

(Deleted by Act A908).

FORM 33

[Section 281]

WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH

To the Officer in charge of the Prison at _____ .

Whereas at the Assizes held on the _____ day of _____ the (1st, 2nd, 3rd, *as the case may be*) prisoner in Case No. _____ at the said Assizes was duly convicted of the offence of murder under section 302 of the Penal Code, and sentenced to suffer death:

This is to authorize and require you, the said Officer, to receive the said _____ into your custody, together with this warrant, and to keep him safely there until you shall receive the further warrant or order of this Court, or an order of the Ruler of the State thereon.

Dated this _____ day of _____ 20 _____ .

(Seal)

Registrar

FORM 34

[Section 281]

WARRANT OF EXECUTION ON A SENTENCE OF DEATH

To the Officer in charge of the Prison at _____ .

Whereas _____ the (1st, 2nd, 3rd, *as the case may be*) prisoner in Case No. _____ at the Assizes held at _____ on the _____ day of _____ 20 _____, has been, by a warrant of this Court, dated the _____ day of _____ committed to your custody under sentence of death; and whereas the order of the Ruler of the State directing the said sentence to be carried into effect has been received by this Court:

This is to authorize and require you, the said Officer, to carry the said sentence into execution by causing the said _____ to be hanged by the neck until he is dead, at (*time and place of execution*), and to return this warrant to the Court with an indorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this _____ day of _____ 20 _____ .

(Seal)

Judge

WARRANT TO LEVY A FINE BY DISTRESS AND SALE

To of .

Whereas of was on the day of 20 , convicted before me of the offence of and sentenced to pay a fine of ringgit, and whereas the said although required to pay the said fine, has not paid the same or any part of it:

This is to authorize and require you to make distress by seizure of any property belonging to the said which may be found within the District of and, if within next after such distress the said sum shall not be paid [or immediately], to sell the property distrained, or so much of it as shall be sufficient to satisfy the said fine, returning this warrant, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

Form of Indorsement

Whereas it has been proved to me that the signature T S to the within warrant is that of T S, a Magistrate of the District of , I do hereby authorize the execution in the District of of the said warrant by .

Magistrate



BOND TO APPEAR AND RECEIVE JUDGMENT

Whereas I inhabitant of have been called upon to enter into a bond to appear before the Court of at if and when called upon to receive the judgment of the said Court for the offence of which of I have been convicted, and in the meantime to be of good behaviour; I hereby bind myself to appear on the day of 20 , in the said Court or wherever I shall be required, and in the meantime to be of good behaviour and to keep the peace towards the Yang di-Pertuan Agong and to all persons within Malaysia; and in case I make default in any of the conditions herein I bind myself to forfeit to the Yang di-Pertuan Agong the sum of ringgit.

Dated this day of 20 .

Signature

Where a bond with sureties is to be executed, add:

We do hereby declare ourselves sureties for the abovenamed that he will appear in the Court of at on the day of 20 , or wherever he shall be required, and that he will in the meantime be of good behaviour and keep the peace towards the Yang di- Pertuan Agong and to all persons within Malaysia; and in case of his making default in any of the conditions herein, we bind ourselves, jointly and severally, to forfeit to the Yang di-Pertuan Agong the sum of ringgit.

Dated this day of 20 .

Signature

FORM 37

[Section 353]

WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT
WHEN A FINE IS IMPOSED

To the Officer in charge of the Prison at .

Whereas at a Court before me on this day of in the presence
[or view] of the Court committed wilful contempt:

And whereas for such contempt the said has been adjudged by the Court to pay
a fine of ringgit, or in default to suffer imprisonment for the space
of .

This is to authorize and require you to receive the said into your custody, together with
this warrant, and to keep him safely in prison for the said period of unless the said fine be
sooner paid; and, on the receipt of it, immediately to set him at liberty, returning this warrant with
an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 38

[Section 357]

WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER

To the Officer in charge of the Prison at .

Whereas of being summoned [or brought before this Court] as a witness and
this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain
question [or certain questions] put to him touching the said alleged offence, and duly recorded,
without alleging any just excuse for such refusal, and for this contempt has been adjudged detention
in custody for .

This is to authorize and require you to take the said into custody, and to keep him
safely in your custody for the space of days, unless in the meantime he shall consent to be
examined and to answer the questions asked of him, and on the last of the said days, or immediately
on such consent being known, to bring him before this Court to be dealt with according to law;
returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 39

BOND AND BAIL BOND ON A PRELIMINARY INQUIRY
BEFORE A MAGISTRATE

(Deleted by Act A908).

FORM 40

[Section 391]

WARRANT TO DISCHARGE A PERSON IMPRISONED ON
FAILURE TO GIVE SECURITY

To the Officer in charge of the Prison at .

Whereas of was committed to your custody under warrant of this Court, dated the day of 20 , and has since with his surety [or sureties] duly executed a bond under the Criminal Procedure Code:

This is to authorize and require you forthwith to discharge the said from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Registrar or Magistrate

FORM 41

[Section 404]

WARRANT OF ATTACHMENT TO ENFORCE A BOND

To .

Whereas of has failed to appear on pursuant to his recognizance, and has by such default forfeited to the Yang di-Pertuan Agong the sum of ringgit, and whereas the said has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him:

This is to authorize and require you to attach any movable property of the said that you may find by seizure and detention, and if the said amount is not paid within three days to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Registrar or Magistrate

FORM 42

[Section 404]

NOTICE TO SURETY ON BREACH OF A BOND

To of .

Whereas on the day of 20 , you became surety for of that he should appear before this Court on the day of 20 , and bound yourself in default thereof to forfeit the sum of ringgit to the Yang di-Pertuan Agong, and whereas the said has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of ringgit:

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Registrar or Magistrate

FORM 43

[Section 404]

NOTICE TO SURETY OF FORFEITURE OF BOND
FOR GOOD BEHAVIOUR

To of .

Whereas on the day of 20 , you became surety by a bond for of that he would be of good behaviour for the period of , and bound yourself in default thereof to forfeit the sum of ringgit to the Yang di-Pertuan Agong, and whereas the said has been convicted of the offence of committed since you became such surety, whereby your security bond has become forfeited:

You are hereby required to pay the said penalty of ringgit, or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Registrar or Magistrate

FORM 44

[Section 404]

WARRANT OF ATTACHEMENT AGAINST A SURETY

To .

Whereas of has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said has made default, and thereby forfeited to the Yang di-Pertuan Agong the sum of ringgit.

This is to authorize and require you to attach any movable property of the said _____ which you may find by seizure and detention; and, if the said amount is not paid within three days to sell the property so attached, or so much of it as may be sufficient to realise the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____ 20 _____ .

(Seal)

Magistrate



FORM 45

[Section 404]

WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED
PERSON ADMITTED TO BAIL

To the Officer in charge of the Prison at _____ .

Whereas _____ of _____ has bound himself as a surety for the appearance of _____ (*state the condition of the bond*) and the said _____ has therein made default whereby the penalty mentioned in the said bond has been forfeited to the Yang di-Pertuan Agong, and whereas the said _____ has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of movable property of his, and an order has been made for his imprisonment in the Civil Prison for _____ .

This is to authorize and require you _____ , to receive the said _____ into your custody with this warrant, and to keep him safely in the said Prison for the said _____ and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day _____ of _____ 20 _____ .

(Seal)

Magistrate



FORM 46

[Section 404]

NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND
TO KEEP THE PEACE

To _____ of _____ .

Whereas on the _____ day of _____ 20 _____ , you entered into a bond not to commit, *etc.* (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded:

You are hereby called upon to pay the said penalty of ringgit or to show cause before me within days why payment of the same should not be enforced against you.

Dated this day of 20 .

(Seal)

Magistrate

FORM 47

[Section 404]

WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON
BREACH OF A BOND TO KEEP THE PEACE

To .

Whereas of did on the day of enter into a bond for the sum of ringgit, binding himself not to commit a breach of the peace, *etc. (as in the bond)*, and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum:

This is to authorize and require you to attach by seizure the property belonging to the said to the value of ringgit which you may find; and if the said sum is not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 48

[Section 404]

WARRANT OF IMPRISONMENT ON BREACH OF A BOND
TO KEEP THE PEACE

To the Officer in charge of the Prison at .

Whereas proof has been given before me and duly recorded that of has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to the Yang di-Pertuan Agong the sum of ringgit; and whereas the said has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable property, and an order has been made for the imprisonment of the said in the Civil Prison for the period of .

This is to authorize and require you, the said Officer of the said Civil Prison to receive the said into your custody, together with this warrant, and to keep him safely in the said Prison for the said

period of ; and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 49

[Section 404]

WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

To .

Whereas of did on the day of 20 , give security by bond in the sum of ringgit for the good behaviour of , and proof has been given before me and duly recorded of the commission by the said of the offence of whereby the said bond has been forfeited; and whereas notice has been given to the said calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum:

This is to authorize and require you to attach by seizure the property belonging to the said to the value of ringgit, which you may find, and if the said sum be not paid within to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Magistrate

FORM 50

[Section 404]

WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR

To the Officer in charge of the Prison at .

Whereas of did on the day of 20 , give security by bond in the sum of ringgit for the good behaviour of and proof of the breach of the said bond has been given before me and duly recorded , whereby the said has forfeited to the Yang di-Pertuan Agong the sum of ringgit; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his property, and an order has been made for the imprisonment of the said in the Civil Prison for the period of .

This is to authorize and require you, , to receive the said into your custody, together with this warrant, and to keep him safely in

Prison for the said period of _____ ; returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____ 20____ .

(Seal)

Magistrate

FORM 51

[Section 307]

FORM OF PETITION OF APPEAL

*In the
To the Judges of the High Court.*
The petition of A B
Showeth as follows:

1. *Your petitioner the above-named A B was charged with _____ and convicted [or acquitted] at the Magistrate's Court held at _____ on the _____ day of _____ 20____ , and the following order was made thereon _____ (here state shortly the substance of the judgment or sentence).
2. Your petitioner is dissatisfied with the said judgment on the grounds following: (here state the particular grounds of appeal on which the appellant relies).
3. Your petitioner prays that such judgment or sentence may be reversed or that such order may be made thereon as justice may require.

Appellant

FORM 52

[Section 370]

FORM OF WARRANT

To the Officer in charge of the Prison at _____ or Officer in charge of the (name of asylum) or to (name of officer) in charge of _____ .

You are hereby required to have the body of _____ now a prisoner in the (name of prison) or now in custody at the (name of asylum) or now in your charge, under safe and sure conduct before the High Court at _____ on the day of _____ next by _____ a.m./p.m. of the same day, there to be dealt with according to law; and unless the said _____ shall then and there by the said Court be ordered to be discharged, cause him, after the said Court shall have dispensed with his further attendance, to be conveyed under safe and sure conduct back to the said prison [*or asylum or other custody*].

Dated this _____ day of _____ 20____ .

Registrar, High Court

* NOTE—If the appeal is brought by the Public Prosecutor omit the words "Your petitioner" in paragraph 1.

FORM 53

[Section 369]

FORM OF WARRANT

To the Officer in charge of the Prison at .

You are hereby required to have the body of now a prisoner in your custody under a warrant of attachment before the High Court on the day of next by a.m./p.m. by of the same day to be dealt with according to law; and you shall then and there abide by such order as shall in that behalf be made by the said Court. And unless the said shall then and there by the said Court be ordered to be released you shall, after the said Court shall have dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison [or other place of custody].

Dated this day of 20 .

Registrar, High Court

FORM 54

[Section 372]

WARRANT TO BRING UP PRISONER TO GIVE EVIDENCE

To the Officer in charge of the Prison at .

You are hereby required to have the body of now a prisoner in your custody under safe and sure conduct before this Court on the day of next by a.m./p.m. of the same day there to give testimony in a certain charge or prosecution now pending before this Court against and after the said shall have given his testimony before this Court or this Court shall have dispensed with his further attendance cause him to be conveyed under safe and sure conduct back to the said prison.

Given under my hand and the seal of the Court, this day of 20 .

(Seal)

Registrar or Magistrate

FORM 55

[Section 388A]

ELECTRONIC MONITORING DEVICE

IN THE COURT AT IN THE STATE OF

- 1. Name:.....
- 2. Case No.:.....
- 3. Identity Card No.:.....
- 4. Address:.....
- 5. Telephone No.:.....
- 6. Family members to be contacted:.....
.....
- 7. Period to be attached with electronic monitoring device (“device”):
- 8. Terms and conditions:
 - (a) to report to the nearest police station at/for every
 - (b) understands that all movements will be tracked and retained as an official record;
 - (c) agrees to be required to report for device equipment checks if necessary;
 - (d) to notify the police officer if there is any change of address;
 - (e) to allow inspections of the device by the police officer;
 - (f) to report to the nearest police station for removal of the device;
 - (g) to return all the device equipment to the police officer;
 - (h) to submit to procedures required by the police officer;
 - (i) to maintain the device as instructed by the police officer;
 - (j) to comply with any directions of the police officer;
 - (k) to comply with any other conditions as the court may determine.
- 9. Failure to comply with the terms and conditions is an offence under the Penal Code.

I hereby agree to and shall comply with the terms and conditions as stated in this Form.

.....
() _____

THIRD SCHEDULE

[Section 352A]

MODIFICATION OF CHAPTER XXXIII FOR
SABAH AND SARAWAK

(Deleted by Act A1132).

FOURTH SCHEDULE

[Section 20A]

PROCEDURE ON BODY SEARCH

PART I

OBJECTIVE

Objective of search

1. (1) A body search may be conducted on a person arrested only if it complies with any of the following objectives:

- (a) to obtain incriminating evidence of the commission of the offence for which he has been arrested;
- (b) to seize contraband, the proceeds of crime, or other things criminally possessed or used in conjunction with the offence for which he has been arrested; or
- (c) for the discovery of evidence related to the reason of the arrest or to preserve the evidence or to prevent disposal of such evidence by the person arrested.

(2) For the purposes of the this Schedule, “person arrested” means a person who is arrested or a person who is in lawful custody after his arrest.

PART II

TYPES AND CONDUCT OF BODY SEARCH

Types of body search

2. There shall be four types of body search—

- (a) pat down search;

- (b) strip search;
- (c) intimate search; and
- (d) intrusive search.

General conduct of officer during search

3. (1) An officer conducting a body search shall do so in a professional manner and have the highest regard for the dignity of the person arrested.

(2) The officer shall comply strictly with the following procedure:

- (a) before any search is commenced, the officer shall introduce himself to the person arrested and shall be courteous, professional and shall not use unnecessary or demeaning language or remarks against the person arrested and shall cause minimal embarrassment to the person;
- (b) the search shall not be more extensive than necessary to ascertain the existence of harmful or unlawful articles believed to be concealed on the person arrested;
- (c) the officer conducting the search shall be of the same sex as the person arrested with strict regard to decency;
- (d) where the gender of the person arrested is in doubt, his gender shall be determined by way of an interview or through his identification card or birth certificate before a search is conducted by an appropriate officer with strict regard to decency;
- (e) for strip, intimate and intrusive search, a second officer who is of the same sex of the person arrested shall be present during the search;
- (f) no officer shall disclose to the public any blemish, flaw or defect of body parts found on the body of the person arrested during the course of the search;
- (g) in the course of a search, the officer shall respect—
 - (i) the religious and cultural sensitivities; and
 - (ii) the physical, psychological, medical and mental characteristics,

of a person arrested. In cases involving the removal of a female's scarf or male headdress, religious and cultural sensitivity approach shall be adopted;

- (h) when a person arrested is pregnant, elderly or a person with disabilities, the search shall be conducted in a proper manner taking into consideration the state of the person's medical and physical condition.

PART III

PAT DOWN SEARCH

Pat down search

4. (1) Pat down search means the act of searching the outer clothing of a person arrested which is to be conducted by quickly running the hands over the outer garments of the person arrested.

(2) Pat down search may be conducted when there is reasonable suspicion that a weapon, object, evidence or contraband is being concealed on a person arrested, and the search may be conducted in the following circumstances:

- (a) at the time of arrest; or
- (b) before the arrested person is put into custody in a lock-up or detention centre.

Authorization is not required to conduct pat down search

5. No authorization is required for an officer to conduct a pat down search.

Procedure on pat down search

6. Whenever any officer of any enforcement agency conferred with the power of arrest of search of a person under any law conducts a pat down search on a person arrested, the following procedure shall be complied with:

- (a) the officer shall first ask the person arrested to declare any item, object, evidence or contraband on his body or clothing that is harmful or unlawful;
- (b) the officer shall then ask the person arrested to remove any personal items from his pockets or other parts of his clothing, to turn pocket linings out and to place the personal items in a place where they can be seen by the officer;
- (c) the officer may ask the person arrested to remove from his body any jewellery, watch, footwear, sock, belt, headwear, beg, pouch and prosthetic device and place the items where they can be seen by the officers;
- (d) the officer may instruct the person arrested to face his back towards him with his arms raised in such position that his palms are resting on the head and the legs are spread wide enough to a reasonable distance for the search to be conducted;
- (e) if there is a wall or vehicle nearby, the person arrested may be asked to face or lean on the said wall or vehicle and the officer shall position himself slightly to one side at the rear of the person arrested;
- (f) the officer may either run his fingers through the person arrested's hair or squeeze it, without pulling the hair and he may also ask the person arrested to run his fingers vigorously through his own hair;

- (g) the officer may start off the pat down search beginning with one side of the person arrested and later proceeding to the centre back, and then the other side and upon completion of the back of the person arrested, the officer may instruct him to turn around and proceed to check the front of the person arrested in a similar manner;
- (h) the officer may proceed to search the person arrested in a manner from top to bottom, running the hand over the neck and collar, shoulder and down the arm to the hand, under the armpit and down the trunk of the body, checking the pockets, seams and hems and other recesses in the clothing and ending at the waistline and for female, the officer may pass the hand over and under the person arrested's breast;
- (i) the officer may instruct the person arrested to loosen his waistbands, if any, and check the bands or waistlines seams and belt loops, then the officer may run the hands around the person arrested's waist and proceed down the buttocks and legs and the officer may use both hands when searching the legs, paying particular attention to seams and cuffs;
- (j) the officer shall not pass the hands over the person arrested's genital area when searching the trunk and legs of the person arrested;
- (k) the search shall where ever possible be done out of the public view, and the officer shall—
 - (i) conduct the search having due regard to the security of the situation and evidence to be recovered and, as reasonably practical, cause minimal embarrassment and take reasonable care to protect the dignity of the person; and
 - (ii) prepare a list of all things seized in the course of the search and signed by the person arrested and he shall be given a copy thereof.
- (l) any pat down search conducted in a lock-up or a detention centre shall be recorded in a station diary or a proper book of record, as the case may be.

PART IV

STRIP SEARCH

Strip search

7. (1) A strip search means a search involving the removal of some part of outer clothings or removal of all the person arrested's clothing and during the search, the person arrested may be allowed to remain partly clothed by allowing him to dress his upper body before removing items of clothing from his lower body.

(2) The strip search may only be conducted in the following circumstances:

- (a) an arrest has been made; and
- (b) when there is reasonable suspicion that the person is concealing an object, evidence, contraband or weapon on him.

(3) A strip search may be conducted before a person arrested is detained in a lock-up or a detention centre or may also be conducted whenever he re-enters the lock-up or a detention centre where there is a reasonable suspicion that the person is concealing an object, evidence, contraband or weapon on him.

Authorization to conduct strip search

8. (1) A strip search shall not be conducted, without the prior approval of a police officer not below the rank of Inspector or in the case of any other enforcement agency, by an officer whose rank or authority is equivalent to the rank or authority of Inspector.

(2) The approval under subparagraph (1), if given orally shall be reduced in writing by the officer conducting a search, in the case of a police officer, into the station diary and in the case of any other enforcement agency, such approval shall be recorded in a proper book of record.

Procedure on strip search

9. Whenever any officer of any enforcement agency conferred with the power of arrest or search of a person under any law conducts a strip search on a person arrested, the following procedure shall be complied with:

- (a) the search shall be conducted in a private room out of the view of anyone outside the room and no recording or communicating devices shall be allowed in this room, including phones and cameras and only the officer conducting a search, the second officer and the person arrested shall be present in the room during the entire search;
- (b) the officer conducting a search shall first explain in a language that the person arrested understands that the person arrested shall be required to take off his clothes and to declare any item, object, evidence or contraband on his body or clothing that is harmful or unlawful;
- (c) the strip search does not require that the person arrested removes all his clothes at the same time;
- (d) the search shall be divided into the search of the upper torso, arms and head, and the search of the lower torso from the navel downwards and in conducting the search a male person shall be allowed to put on his shirt before removing his trousers and a female person shall be allowed to put on her blouse and upper garments before removing her pants or skirt;
- (e) all the removed clothes and personal items shall be thoroughly inspected, in the full view of the person arrested, to ensure that there are no incriminating weapons, objects, evidence or contraband concealed;
- (f) to check the person arrested's hair the officer conducting a search may comb through the person's hair and if the hair is dreadlocked or matted, the officer will have to use his fingers to squeeze the person's hair without pulling it;

- (g) to search the ears, the officer may—
- (i) check the crevice behind the ears and have the person arrested lift his hair away from the neck; and
 - (ii) inspect the ear canals of the person by looking into the ear canal and for this purpose, a flashlight may be used;
- (h) in conducting a search of the nasal passage, the officer conducting a search may instruct the person arrested to tilt head back to observe and inspect the nasal canal and nostrils, and for this purpose, a flashlight may be used;
- (i) to search the mouth, the officer may—
- (i) instruct the person arrested to roll back his tongue to observe under the tongue;
 - (ii) instruct the person arrested to stick his tongue out to observe the back of the throat;
 - (iii) instruct the person arrested to pull his upper and lower lip from the gums to inspect the gum lines; or
 - (iv) instruct the person arrested to remove his dentures or false plates, if any, for inspection;
- (j) for an inspection of the person's torso from the navel upwards, the person arrested is allowed to wear his lower garments and the officer may—
- (i) instruct the person arrested to stand in a position with his arms raised and palms resting on the head;
 - (ii) conduct a visual inspection of the person arrested may be conducted either by asking the person to turn 360 degrees slowly, or the officer may walk around the person;
 - (iii) inspect both his armpits, entire torso and belly button and if the person arrested is obese, he may be instructed to lift any skin to inspect any crevice that may not be visible;
 - (iv) instruct a female person to lift and separate her breasts to inspect all sides;
 - (v) inspect the whole arm and all fingers.
- (k) for an inspection of the lower torso below the navel and the legs, the person arrested shall be allowed to wear his upper garments and the officer may—
- (i) instruct the person arrested to remove all clothes covering the bottom half from the navel downwards;
 - (ii) conduct a visual inspection of the person arrested either by asking the person to turn 360 degrees slowly, or the officer may walk around the person;

- (l) the officer shall have minimal physical contact with the person arrested during the search involving his intimate parts of the body;
- (m) after the search is completed the person arrested shall be allowed to put on his clothes;
- (n) a list of all things seized in the course of the search shall be prepared by the officer conducting the search and signed by the person arrested and he shall be given a copy thereof.

PART V

INTIMATE SEARCH

Intimate search

10. (1) An intimate search means a search which consists of the physical examination of a person arrested's body orifices other than the mouth, nose and ears.

(2) The intimate search may only be conducted in the following circumstances:

- (a) an arrest has been made; and
- (b) the officer has a reasonable suspicion, whether or not the pat down search or strip search is conducted, that the person arrested is concealing a weapon, object, evidence or contraband in his body orifices.

Authorization to conduct intimate search

11. An intimate search shall not be conducted, without the prior approval of a police officer not below the rank of Assistant Superintendent of Police or in the case of any other enforcement agency, by the officer whose rank or authority is equivalent to the rank of Assistant Superintendent of Police.

Procedure on intimate search

12. Whenever any officer of any enforcement agency conferred with the power of arrest or search of a person under any law conducts an intimate search on a person arrested, the following procedure shall be complied with:

- (a) if necessary, the person arrested may be instructed to remove all clothes covering the bottom half, from the navel downwards;
- (b) if necessary, the person arrested may be instructed to squat over a mirror placed on the floor and made to cough deeply not more than ten times;
- (c) when nothing is recovered after the squat and coughing deeply until ten times the intimate search shall stop and the person arrested shall be allowed to put on his clothes;

- (d) where the officer considers that the person arrested is incapable of doing the squat due to the health, physical conditions or appears to be or claims to be pregnant, the squat shall not be performed;
- (e) the officer shall not attempt or conduct any external intervention in discharging the article from the body orifices of the person arrested;
- (f) the procedure on strip search as specified under subparagraphs 9(a), (b), (c), (d), (e), (f), (j), (k), (l), (m) and (n) shall apply for the purpose of intimate search.

PART VI

INTRUSIVE SEARCH

Intrusive search

13. (1) An intrusive search means a search involving the examination of a person arrested to determine the existence of any object, evidence, weapon or contraband inside the body or body orifices of the person and includes the removal of such object, evidence, weapon or contraband.

(2) The intrusive search shall only be conducted by a Government Medical Officer or a Medical Officer, or by any hospital assistant or a registered nurse acting under the Government Medical Officer or a Medical Officer's direction.

Authorization to conduct intrusive search

14. (1) An intrusive search shall not be conducted, without the prior approval of an Officer in charge of the Police District or in the case of any other enforcement agency, by the officer whose authority is equivalent to the authority of an Officer in charge of the Police District.

(2) The approval under subparagraph (1) shall be recorded in the station diary and in the case of other enforcement agencies, such approval shall be recorded in a proper book of record.

(3) A Government Medical Officer or a Medical Officer after being served with a copy of the request for an intrusive search containing particulars of the approval of the officer under subsection (1) shall, as soon as possible, conduct the intrusive search or direct any hospital assistant or a registered nurse to conduct the search.

Procedure on intrusive search

15. Whenever an intrusive search on a person arrested is conducted, the following procedure shall be complied with:

- (a) the person arrested may be taken to the nearest hospital as soon as practicable for the search to be conducted accompanied by an officer;

- (b) the accompanying officer, who is of the same sex as the person arrested, shall witness the search and shall take into custody of any weapon, object, evidence or contraband recovered pursuant to the search;
 - (c) a list of all things seized in the course of the search shall be prepared by the officer conducting the search and signed by the person arrested and he shall be given a copy thereof.
-

LAWS OF MALAYSIA

Act 593

CRIMINAL PROCEDURE CODE

LIST OF AMENDMENTS

Amending law	Short title	In force from
En. No. 19/1936	Criminal Procedure Code (Amendment) Enactment 1936	29-07-1936
En. No. 18/1937	Statute Law Revision (Chief Secretary's Powers) Enactment 1937	23-07-1937
En. No. 3/1938	Statute Law Revision (General Amendments) Enactment 1938	06-04-1938
En. No. 29/1938	Criminal Procedure Code (Amendment) Enactment 1938	21-12-1938
M.U. Ord. 13/1947	Criminal Procedure (Amendment) Ordinance 1947	10-03-1947
M.U. Ord. 1/1948	Criminal Procedure (Amendment) Ordinance 1948	31-01-1948
F.M. Ord. 1/1948	Transfer of Powers Ordinance 1948	06-03-1948
F.M. Ord. 43/1948	Courts Ordinance 1948	01-01-1949
F.M. Ord. 36/1950	Married Women and Children (Maintenance) Ordinance 1950	04-07-1950
F.M. Ord. 1/1952	Criminal Procedure Codes (Amendment) Ordinance 1952	24-03-1952
F.M. Ord. 14/1952	Police Ordinance 1952	15-11-1952
F.M. Ord. 79/1952	Criminal Procedure Codes (Amendment No. 2) Ordinance 1952	30-12-1952
L.N. 239/1953	Rule Committee Ordinance 1948	Selangor (except Sabak Bernam and Sepang)— 01-05-1953; Remainder the Federation— 01-08-1953

Amending law	Short title	In force from
L.N. 240/1953	Rule Committee Ordinance 1948	01-05-1953
L.N. 241/1953	Rule Committee Ordinance 1948	01-05-1953
F.M. Ord. 14/1953	Criminal Justice Ordinance 1953	30-04-1953
F.M. Ord. 8/1954	Criminal Procedure Codes (Amendment) Ordinance 1954	25-02-1954
F.M. Ord. 21/1955	Criminal Procedure Codes (Amendment) Ordinance 1955	15-06-1955
L.N. 161/1957	Federation of Malaya Agreement (Transfer of Powers of British Advisers) Order 1957	Johore: 01-02-1957; Kedah & Perlis: 01-03-1957; Kelantan, Perak & Terengganu: 01-01-1957; Negeri Sembilan: 28-07-1956; Pahang: 01-08-1956; Selangor: 16-11-1956
L.N. 1/1957	Federal Constitution (Modification of Laws) Order 1957	31-08-1957
L.N. (N.S.) 56/1957	Federal Constitution (Modification of Laws) Order 1957	31-08-1957
L.N. (N.S.) 73/1957	Federal Constitution (Modification of Laws) (No. 2) Order 1957	14-11-1957
L.N. 161/1957	Federation of Malaya Agreement (Transfer of Powers of British Advisers) Order 1957	Johore: 01-02-1957; Kedah & Perlis: 01-03-1957; Kelantan, Perak & Terengganu: 01-01-1957; Negeri Sembilan: 28-07-1956; Pahang: 01-08-1956; Selangor: 16-11-1956

Amending law	Short title	In force from
L.N. (N.S.)	Federal Constitution (Modification 1/1957 of Laws) Order 1957	31-08-1957
L.N. (N.S.)	Federal Constitution (Modification 56/1957 of Laws) Order 1957	31-08-1957
L.N. (N.S.)	Federal Constitution (Modification 73/1957 of Laws) (No. 2) Order 1957	14-11-1957
Ord. 69/1957	Criminal Procedure Code (Amendment) Ordinance 1957	01-01-1958
Ord. 73/1958	Criminal Procedure Code (Amendment) Ordinance 1958	27-12-1958
Act 5/1963	Kidnapping Act 1963	21-01-1963
Act 9/1963	Criminal Procedure Code (Amendment) Act 1963	21-01-1963
Act 6/1965	Warrants and Summonses (Special Provisions) Act 1965	21-01-1965
L.N. 228/1965	Modification of Laws (Criminal Procedure) (Powers of Arrest) (Malaysia) Order 1965	16-09-1963
Act No. 25/1967	Criminal Procedure Code (Amendment) Act 1967	01-06-1967
Act No. 38/1967	Criminal Procedure Code (Amendment) (No. 2) Act 1967	29-08-1967
Act A6	Criminal Procedure Code (Amendment) Act 1969	01-03-1969
P.U. (A) 521/1969	Emergency (Essential Powers) Ordinance No. 14 of 1969	18-12-1969
Act A233	Criminal Procedure Codes (Amendment) Act 1974	01-11-1973
Act A324	Criminal Procedure Code (Amendment and Extension) Act 1976	10-01-1976
P.U. (A) 97/1976	Modification of Laws (Criminal Procedure) (Sabah and Sarawak) Order 1976	10-01-1976
Act A365	Criminal Procedure Code (Amendment) Act 1976	29-10-1976
Act A549	Penal Code and Criminal Procedure Code (Amendment) Act 1983	20-02-1983

Amending law	Short title	In force from
Act A614	Penal Code (Amendment) Act 1985	31-05-1985
Act A728	Criminal Procedure Code (Amendment) Act 1989	05-05-1989
Act A841	Criminal Procedure Code (Amendment) Act 1993	05-02-1993
Act A908	*Criminal Procedure Code (Amendment) Act 1995	17-02-1995
Act A979	Criminal Procedure Code (Amendment) Act 1997	31-01-1997
Act A1015	**Criminal Procedure Code (Amendment) Act 1998	01-04-1998
Act A1132	Criminal Procedure (Amendment) Act 2001	S. 1, 3-8, 10 & 20: 01-08-2002; S. 2, 9, 11-19 & 21: 15-09-2012
P.U.(A) 224/2005	Revision of Laws (Rectification of Criminal Procedure Code) Order 2005	17-06-2005
Act A1274	Criminal Procedure Code (Amendment) Act 2006	S.9, 20, para. 33(b),(f), (g) & (h): 06-03-2006, P.U. (B) 68/2007; para. 33(k) & (v): 02-07-2007, P.U. (B) 243/2007; S. 2-8, 10-19, 21-32, para. 33(a), (c), (d), (e), (i), (j), (i)-(u) and S.34:07-09 2007, P.U. (B) 322/2007

*NOTE—Any preliminary inquiry, trial by jury or trial with the aid of assessors that has been commenced before or on the commencement of the amending Act shall be continued or concluded in all respects as if the amending Act has not been passed and for that purpose, any preliminary inquiry or trial has been commenced when the accused has appeared before or has been brought before the Magistrate's Court or the High Court, as the case may be, and evidence has begun to be adduced in the inquiry or trial—see section 39 of the Criminal Procedure Code (Amendment) Act 1995 [Act A908].

**NOTE—The provisions of the Act shall not apply to any prosecution or proceeding which has been instituted but has not been completed on the date of the commencement of the Act.

—No finding, judgment, sentence or order of any Court passed or imposed before the date of the commencement of the Act or during or at the conclusion of any prosecution or proceeding referred to in subsection 11(1) of the Act shall be reversed, altered or affected by any provision of the Act—see subsections (1) and (2) of the Criminal Procedure Code (Amendment) Act 1998 [Act A1015].

Criminal Procedure Code

365

Amending law	Short title	In force from
Act A1304	Criminal Procedure Code (Amendment) (Amendment) Act 2007	07-09-2007;
Act A1350	Criminal Procedure Code (Amendment) Act 2009	01-05-2009
Act A1378	Criminal Procedure Code (Amendment) Act 2010	01-06-2012
Act A1422	Criminal Procedure Code (Amendment) Act 2012	01-06-2012
Act A1423	Criminal Procedure Code (Amendment) Act 2012	01-06-2012
Act A1431	Criminal Procedure Code (Amendment) Act 2012	31-07-2012
Act A1521	Criminal Procedure Code (Amendment) Act 2016	01-03-2017 except sections 17, 18, and 19; 31-07-2017

LAWS OF MALAYSIA

Act 593

CRIMINAL PROCEDURE CODE

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
1	En. No. 18/1937	23-07-1937
	F.M. Ord. 1/1948	06-03-1948
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28	F.M. Ord. 8/1954	25-02-1954
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38	L.N. 240/1953	01-05-1953
39	L.N. 239/1953	Selangor (except Sabak Bernam and Sepang)— 01-05-1953; Remainder of the Federation— 01-08-1953
40	L.N. 239/1953	Selangor (except Sabak Bernam and Sepang)— 01-05-1953; Remainder of the Federation— 01-08-1953
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56	En. No. 19/1936 Act A324	29-07-1936 10-01-1976
57	L.N. 240/1953	01-05-1953
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62B	Act. No. 25/1967	01-06-1967
66A	En. No. 19/1936	29-07-1936
68	En. No. 18/1937	23-07-1937
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114	Act A324 Act A1274	10-01-1976 07-09-2007
115	Act A1274	07-04-2007
117	Act 25/1967 Act A324 Act A1132 Act A1274	01-06-1967 10-01-1976 01-08-2002 07-09-2007
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135	Act A1015	01-04-1998
137	F.M. Ord. 8/1954 Act No. 25/1967	25-02-1954 01-06-1967
138	Act A324 Act A908	10-01-1976 17-02-1995
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155	Act No. 25/1967	01-06-1967
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171A	Act No. 25/1967	01-06-1967
172	En. No. 3/1938	06-04-1938
172A	Act 1378	01-06-2012
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172B	Act 1378	01-06-2012
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173A	En. No. 19/1936	29-07-1936
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178	Act A979	31-01-1997
179	Act A908	17-02-1995
180	Act A979	31-01-1997
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198	F.M. Ord. 8/1954	25-02-1954
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241	F.M. Ord. 1/1948	06-03-1948
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269	Act A908	17-02-1995
272A	P.U. (A) 521/1969	18-12-1969
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308	En. No. 19/1936	29-07-1936
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349	Act A908	17-02-1995
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363	F.M. Ord. 36/1950	04-07-1950
364	F.M. Ord. 36/1950	04-07-1950
376	En. No. 18/1937	23-04-1937
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377	En. No. 18/1937	23-04-1937
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378	F.M. Ord. 8/1954	25-02-1954
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379	En. No. 18/1937	23-04-1937
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380	F.M. Ord. 8/1954	25-02-1954
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382	Act A908	17-02-1995
383	Act A908	17-02-1995
384	Act A908	17-02-1995
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399	En. No. 19/1936 F.M. Ord. 1/1952 L.N. (N.S.) 73/1957 Act No. 25/1967	29-07-1936 24-03-1952 14-11-1957 01-06-1967
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417	Act A324	10-01-1976
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418A	Act A324	10-01-1976
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426	F.M. Ord. 8/1954	25-02-1954
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427	F.M. Ord. 8/1954	25-02-1954
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428	En. No. 18/1937	23-04-1937
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431	En. No. 18/1937	23-04-1937
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