



THE SUMMARY PROCEEDINGS REGULATIONS 1958,
AMENDMENT NO. 7

DENIS BLUNDELL, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 4th day of June 1974

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Summary Proceedings Act 1957, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title—These regulations may be cited as the Summary Proceedings Regulations 1958, Amendment No. 7, and shall be read together with and deemed part of the Summary Proceedings Regulations 1958* (hereinafter referred to as the principal regulations).

2. New regulations inserted—The principal regulations are hereby amended by inserting, after regulation 15A (as inserted by regulation 2 of the Summary Proceedings Regulations 1958, Amendment No. 6), the following heading and regulations:

“Enforcement of Penalties

“15b. Where any defendant applies under section 88 of the Act for an extension of the time allowed by section 84 of the Act in which to pay any sum of money, the Registrar to whom the application is made shall require the defendant to complete a statement giving particulars of that sum and of his means, which statement shall be in a form approved for the time being by the Secretary for Justice.

*S.R. 1958/38

Amendment No. 1: (*Revoked by S.R. 1967/251*)

Amendment No. 2: (*Revoked by S.R. 1965/116*)

Amendment No. 3: S.R. 1965/116

Amendment No. 4: S.R. 1967/251

Amendment No. 5: S.R. 1969/275

Amendment No. 6: S.R. 1970/52

“**15c.** (1) Every inquiry into the means of the defendant under section 88 or section 89 of the Act shall be conducted at a time and place to be appointed by the Registrar.

“(2) The time may be either during or outside the usual hours of business of the Court.

“(3) The inquiry may be appointed to take place in the Court or in an office of the Court or at any other place.

“(4) If the Registrar to whom the application is made considers that the inquiry would be more conveniently conducted by the Registrar of some other Court, he may appoint the Registrar of that other Court to conduct the inquiry, and that Registrar may conduct the inquiry accordingly.

“**15D.** The only persons entitled to be present at the examination of the defendant as to his means or at the examination of any other person at an inquiry into the means of the defendant shall be—

“(a) The Registrar and any officer of the Court assisting him:

“(b) The defendant and his solicitor or counsel:

“(c) Any person who has been summoned by the Registrar under subsection (4) of section 89 of the Act:

“(d) Any other person who has the permission of both the defendant and the Registrar to be present.

“**15E.** (1) The Registrar shall not allow further time within which to pay the sum adjudged to be paid, unless he is satisfied, after having regard to,—

“(a) The salary or wages that the defendant is likely to receive during the period allowed for payment under section 84 of the Act:

“(b) Any other money that is available to the defendant:

“(c) The assets and liabilities of the defendant and their nature:

“(d) The manner in which the liabilities of the defendant have arisen:

“(e) Any recent disposition by the defendant of any of his property:

“(f) The sum reasonably required by the defendant for the maintenance of himself and his wife and family and his other dependants during the period so allowed under section 84 of the Act:

“(g) Provision for contingencies:

“(h) Such other circumstances as the Registrar considers relevant,— that it would not be reasonable to expect the defendant to make available, within the period allowed for payment under section 84 of the Act, sufficient money to pay that sum in full.

“(2) In fixing the amount of the instalments the Registrar shall have regard to the factors mentioned in paragraphs (a) to (h) of subclause (1) of this regulation and to the need to obtain within a reasonable time, payment of the sum adjudged to be paid, without inflicting unnecessary hardship on the defendant or his wife or family or his other dependants.

“**15F.** (1) Where a defendant is under the age of 16 years, an application under section 88 of the Act for an extension of time in which to pay any sum of money may, with the consent of the Registrar, be made on behalf of that defendant by a parent or guardian of the defendant or by any person (including a welfare officer) who has custody of the defendant.

“(2) Where a defendant is, by reason of physical or mental infirmity or by reason of his absence from New Zealand, incapable of making an application under section 88 of the Act for an extension of time in which to pay any sum of money or of furnishing all the necessary particulars, such an application may, with the consent of the Registrar, be made on his behalf by any responsible person (including a District Public Trustee) who satisfies the Registrar that he has sufficient knowledge of the defendant’s affairs.

“(3) Every such application which is signed on behalf of any person pursuant to this regulation shall have attached to it an endorsement showing the name, address, and standing of the person who makes the application on behalf of the defendant and the reason why the application is not signed by the defendant in person. Where the defendant is absent from New Zealand the endorsement shall also show when he is expected to return to New Zealand.

“(4) For the purposes of this regulation the term ‘custody’ means the right to possession and care of a child.

“15c. (1) If it appears to the Registrar of the Court in which a conviction or order is being enforced that the conviction or order may be more effectively enforced in another Magistrate’s Court, the Registrar may, of his own motion or at the request or with the consent of the defendant, make an order making the payment of the sum adjudged to be paid enforceable in that other Court, and subsections (2) and (3) of section 91 of the Act shall apply in respect of every such order.

“(2) For the purposes of subclause (1) of this regulation, the Court in which a conviction or order can be most effectively enforced shall, in the absence of evidence to the contrary, be presumed to be the Court closest to the defendant’s place of residence.

“(3) Where a Registrar makes an order under this regulation or under section 91 of the Act by which a conviction or order is made enforceable in a Court which is not the Court closest to the defendant’s place of residence, the Registrar shall state in the order his reasons for making the conviction or order enforceable in that Court.

“(4) Every Registrar who makes an order under this regulation or under section 91 of the Act shall cause a copy of that order to be sent—

“(a) To the defendant in a letter addressed to the defendant at his last known or usual place of residence or business; and

“(b) To the Registrar of every other Court in which the defendant is believed by the Registrar who makes the order to have fines outstanding.

“15h. (1) Where default is made in the payment of a sum adjudged to be paid by a conviction and a summons or warrant is issued by the Registrar under section 89 (1) of the Act, a fee of \$10 shall be payable by the defendant in respect of the issue of the summons or warrant:

“Provided that where a defendant has made default in the payment of more than one such sum and more than one such summons or warrant is issued in respect of sums owing by that defendant, the Registrar or a Magistrate may in his discretion waive payment of the said fee in respect of all or any of such summonses or warrants except the first.

“(2) No fee shall be payable in respect of any summons issued under section 89 (4) of the Act.”

3. Forms substituted, revoked, and inserted—(1) The First Schedule to the principal regulations is hereby amended—

- (a) By inserting, after form 5, the form 5A set out in the First Schedule to these regulations:
 - (b) By inserting, after form 7, the form 7A set out in the First Schedule to these regulations:
 - (c) By inserting, after form 9, the form 9A set out in the First Schedule to these regulations:
 - (d) By revoking forms 12, 13, 14 (as substituted by regulation 3 (1) of the Summary Proceedings Regulations 1958, Amendment No. 3), and 15, and substituting the forms 12, 12A, 13, and 14 set out in the First Schedule to these regulations:
 - (e) By revoking form 22, and substituting the form 22 set out in the First Schedule to these regulations:
 - (f) By revoking forms 26, 27, 28, 29, 30, 31, and 32, and substituting the forms 26, 27, 28, 29, 30, 31, 32, 32A, 32B, 32C, 32D, 32E, 32F, and 32G set out in the First Schedule to these regulations:
 - (g) By revoking form 45 (as substituted by regulation 5 of the Summary Proceedings Regulations 1958, Amendment No. 3), and substituting the forms 45 and 45A set out in the First Schedule to these regulations:
 - (h) By revoking form 48, and substituting the form 48 set out in the First Schedule to these regulations.
- (2) Regulations 3 and 5 of the Summary Proceedings Regulations 1958, Amendment No. 3, are hereby consequentially revoked.

4. Amendments to forms—(1) The First Schedule to the principal regulations is hereby further amended by omitting from form 24 the words “To every constable: (*Or To [Full name], constable:*)”, and substituting the words “To every bailiff (constable): (*Or To [Full name], bailiff (constable)*)”.

(2) The said First Schedule is hereby further amended by omitting from form 25 the words “To every constable (*Or To [Full name], constable*)”, and substituting the words “To every bailiff (constable) (*or To [Full name], bailiff (constable)*)”.

5. Court fees—(1) The principal regulations are hereby amended by revoking the Second Schedule (as substituted by regulation 2 of the Summary Proceedings Regulations 1958, Amendment No. 4), and substituting the Second Schedule set out in the Second Schedule to these regulations.

(2) The Summary Proceedings Regulations 1958, Amendment No. 4, are hereby revoked.

SCHEDULES

FIRST SCHEDULE

Reg. 3 (1)

NEW FORMS 5A, 7A, 9A, 12, 12A, 13, 14, 22, 26, 27, 28, 29, 30, 31, 32, 32A, 32B,
32C, 32D, 32E, 32F, 32G, 45, 45A, and 48

PRESCRIBED

Form 5A

POLICE SUMMONS TO DEFENDANT

Section 19A, Summary Proceedings Act 1957

To [Full name], of [Address, occupation].

You have been arrested without warrant.

The charge against you is that you the said [Full name] *(within the space of (6) months last past, namely,) on the day of 19.. at [Here set out the substance of the offence] being a summary offence [Here add section and statute applicable].

An information in respect of this offence will be laid and filed within 7 days.

You are now being released without bail.

YOU ARE SUMMONED to appear onday, the day of 19..†, at a.m. (p.m.), at the Magistrate's Court at, to answer to the charge.

Dated at this day of 19...

.....
Constable.

*Delete if inapplicable.

†This day must be not later than 2 months after the date of this summons.

Form 7A

C.R. No.....

WARRANT OF COMMITMENT OF WITNESS

Section 20 (4A) (a), Summary Proceedings Act 1957

To every constable (or To [Full name], constable), and to the Superintendent of the prison at

[Full Name], of [Address, occupation] (hereinafter called the witness), a witness in the case of [Title of proceedings] for hearing before this Court was arrested pursuant to a warrant issued under section 20 (4) of the Summary Proceedings Act 1957 and brought before me.

I HEREBY ORDER that the witness be committed to prison to be detained until the hearing of the case and I DIRECT YOU, the said constable(s), to deliver the witness to the prison at and you, the said Superintendent, to receive the witness into your custody and to detain him until day, the day of 19.., when you are required to bring him to the Magistrate's Court at at a.m. (p.m.), to give his evidence.

Dated at this day of 19...

.....
Magistrate.

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FIRST SCHEDULE—continued

[Back]

CERTIFICATE OF CONSENT TO BAIL BY COURT

I hereby certify that I consent to the said being bailed in the sum of with surety (sureties) in the sum of (each) (without surety) subject to the following condition(s):

.
Magistrate.

Form 9A

C.R. No.

NOTICE OF PROSECUTION FOR MINOR OFFENCE

Section 20A, Summary Proceedings Act 1957

To: [Set out name and address of defendant in postal address form] Magistrate's Court:
Occupation:
Date of Birth:
*Driver's Licence No:
*Latest Coupon issued by:—

TAKE NOTICE that I, [Full name of informant] of [Address, capacity in which acting], allege that you, the above-named [Full name of defendant], did, on the day of 19.. at commit an offence against [Here set out section and statute applicable] in that you [Here set out brief details of the offence].

The facts on which I base this allegation are contained in the summary set out below (*or attached to this notice and signed by me).

PENALTY

THE maximum penalty for this offence is a fine not exceeding \$.

*The minimum penalty expressly provided for the offence is [Give particulars].

*Other consequences of conviction for the offence are [Give particulars in accordance with section 20A (3) (c) of the Summary Proceedings Act 1957].

I CERTIFY that I believe that I have just cause for this allegation and that, to the best of my knowledge and belief the summary of the facts and the other particulars relating to the offence or to the defendant, which facts and particulars are set out below (*or on an attached sheet of paper signed by me), are true and correct.

Dated at this day of 19..

.
[Signature of Informant].

FIRST SCHEDULE—*continued*SUMMARY OF FACTS
(and other relevant matters)

THE facts on which the Informant bases his allegation are as follows: (*or are set out on the attached sheet of paper headed SUMMARY OF FACTS and signed by the Informant). [*The summary must be sufficient to fully and fairly inform the Defendant of the allegations against him. Particulars of other matters (not being previous convictions) which the Informant considers are relevant to the imposition of a penalty may also be included.*]

*PREVIOUS CONVICTIONS

*Particulars of the defendant's previous convictions are attached

*Delete if inapplicable.

NOTICE TO DEFENDANT OF HIS RIGHTS

When writing or making inquiries
please quote this number.

C.R. No.....

(1) YOU HAVE BEEN CHARGED WITH AN OFFENCE.

(2) IF YOU WISH TO DENY THE CHARGE OR TO APPEAR BEFORE THE COURT for that or any other purpose related to the alleged offence you MUST send written advice to that effect to the Registrar,..... Magistrate's Court,..... by the..... A summons will then be issued requiring you to appear before the Court.

(3) IF YOU WISH TO PLEAD GUILTY to the charge you may in writing addressed to the Registrar at the above address, give notice that you plead guilty. In that notice you may—

(a) State matters in relation to the offence, which you wish the Court to take into consideration:

(b) Make submissions with regard to the appropriate penalty:

(c) Unless a minimum penalty for the offence is expressly provided for, put forward reasons why you should be discharged without conviction under section 42 of the Criminal Justice Act 1954.

(4) IF YOU DO NOTHING, then, after the date specified in paragraph (2) above, a Magistrate may deal with you on the basis of the summary of the facts given to you as if you had appeared before the Court and pleaded guilty.

(5) PREVIOUS CONVICTIONS: If this notice is accompanied by particulars of any previous convictions against you, the Magistrate may take these into account in deciding whether or not to impose a penalty, and, if one is imposed, its amount. If you dispute particulars of any conviction you should send written advice to that effect to the Registrar by the date specified in paragraph (2) above. A summons will then be issued.

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

.....
(Deputy) Registrar.

NOTE—If you are in doubt consult a solicitor or the Registrar immediately.

The office hours of the Court are:.....

FIRST SCHEDULE—*continued*

Form 12

C.R. No.....

BAIL BOND FOR THE ATTENDANCE OF THE DEFENDANT

Section 50 (1), Summary Proceedings Act 1957[*Full name*], Informant.[*Full name*], Defendant.

[*Full name*], of [*Address, occupation*] (hereinafter called the defendant) is charged with.....and [*Full name(s), address(es), and occupation(s)*] has (have) agreed to act as surety (sureties).

I, the defendant, bind myself to attend personally at the Magistrate's Court at.....on.....day, the.....day of.....19.., at.....a.m. (p.m.) (and to attend personally at every time and place to which the hearing may be from time to time adjourned), to answer further to the charge (and in the meantime to report.....at the Police Station at.....).

And I, the defendant, acknowledge myself bound to forfeit to the Crown the sum of \$.....and I (we) the surety (sureties) acknowledge myself (ourselves) bound to forfeit to the Crown the sum of \$..... (each) in the event that the defendant fails to attend or fails to perform any of his other obligations under this bond.

.....
Defendant.

.....
Surety (or Sureties).

Taken before me at.....this.....day of.....19...

.....
Magistrate
(or Justice of the Peace or
Registrar or Superintendent of
the penal institution in which
the defendant is detained).

NOTICE OF BOND

Section 50 (2), Summary Proceedings Act 1957

To the above-mentioned defendant and to the above-mentioned surety (sureties):

TAKE NOTICE that if the defendant fails to attend as required by the bail bond set out above or to perform any of his other obligations under that bond, then you, the defendant, will forfeit the sum of \$..... (and you, the surety (sureties), will forfeit the sum of \$..... (each)).

Dated at this day of 19...

.....
Magistrate
(or Justice of the Peace
or Registrar or Superintendent)

FIRST SCHEDULE—continued

Form 12A

C.R. No.....

BAIL BOND FOR THE ATTENDANCE OF A WITNESS

Section 50 (1) (as applied by section 20 (4D)), Summary Proceedings Act 1957
[Full name], Witness.

[Full name], of [Address, occupation] (hereinafter called the witness), who was arrested to ensure his attendance to give evidence at the hearing of the case of [Title of proceedings], has been granted bail and [Full name(s), address(es) and occupation(s)] has (have) agreed to act as surety (sureties).

I, the witness, bind myself to attend personally at the Magistrate's Court at.....on.....day, the.....day of.....19.. ata.m. (p.m.) (and to attend personally at every time and place to which the hearing may be from time to time adjourned unless I am released by the Court from further attendance) (and in the meantime to report.....at the Police Station at.....).

And I, the witness, acknowledge myself bound to forfeit to the Crown the sum of \$.....and I (we) the surety (sureties) acknowledge myself (ourselves) bound to forfeit to the Crown the sum of \$..... (each) in the event that the witness fails to attend or fails to perform any of his obligations under this bond.

.....
Witness.

.....
Surety (or Sureties).

Taken before me at.....this.....day of.....19...

.....
Magistrate
(or Justice of the Peace or Registrar or Superintendent of the penal institution in which the witness is detained).

NOTICE OF BOND

Section 50 (2) (as applied by section 20 (4D)), Summary Proceedings Act 1957

To the above-mentioned witness and to the above-mentioned surety (sureties):

TAKE NOTICE that if the witness fails to attend as required by the bail bond set out above or to perform any of his other obligations under that bond, then you, the witness, will forfeit the sum of \$..... (and you, the surety (sureties), will forfeit the sum of \$..... (each)).

.....
Magistrate
(or Justice of the Peace or Registrar or Superintendent).

FIRST SCHEDULE—continued

Form 13

C.R. No.

BAIL BOND FOR THE ATTENDANCE OF THE APPELLANT

*Section 50 (1), (as applied by section 125 (3)),
Summary Proceedings Act 1957*

[Full name], Appellant.

[Full name], Respondent.

[Full name], of [Address, occupation] (hereinafter called the appellant) has appealed against his conviction (or sentence or conviction and sentence) for and [Full name(s), address(es), and occupation(s)] has (have) agreed to act as surety (sureties).

I, the appellant, bind myself to attend personally at the Supreme Court at on day, the day of 19..., at a.m. (p.m.), and on any day to which the hearing may be from time to time adjourned, (and in the meantime to report at the Police Station at).

And I, the appellant, acknowledge myself bound to forfeit to the Crown the sum of \$..... and I (we) the surety (sureties) acknowledge myself (ourselves) bound to forfeit to the Crown the sum of \$..... (each) in the event that the appellant fails to attend or fails to perform any of his other obligations under this bond.

.....
Appellant......
Surety (or Sureties).

Taken before me at this day of 19...

.....
Magistrate
(or Justice of the Peace
or Registrar).

NOTICE OF BOND

*Section 50 (2) (as applied by section 125 (3)),
Summary Proceedings Act 1957*

To the above-mentioned appellant and to the above-mentioned surety (sureties):

TAKE NOTICE that if the appellant fails to attend as required by the bail bond set out above or to perform any of his other obligations under that bond then you, the appellant, will forfeit the sum of \$..... (and you, the surety (sureties), will forfeit the sum of \$..... (each)).

Dated at this day of 19...

.....
Magistrate
(or Justice of the Peace
or Registrar).

FIRST SCHEDULE—continued

Form 14

C.R. No.....

BAIL BOND FOR THE ATTENDANCE OF A DEFENDANT
COMMITTED FOR TRIAL OR SENTENCE

Section 50 (1) (as applied by section 171 (1) and (2)),
Summary Proceedings Act 1957

[Full name], Informant.

[Full name], Defendant.

[Full name], of [Address, occupation] (hereinafter called the defendant), has been committed for trial (sentence) for and [Full name(s), address(es) and occupation(s)] has (have) agreed to act as surety (sureties).

I, the defendant, bind myself to attend personally and report to the Registrar of the Supreme Court at (at such time on such day during the sittings of the Supreme Court then current for the trial of criminal cases at the place as may be notified by the Registrar, in writing, to myself or to my counsel, or if I am not so notified, then) at a.m. (p.m.) on day, the day of 19.., being the first day of the next sittings of the Supreme Court for the trial of criminal cases at that place, and to attend personally thereafter on such other day or days during the sittings as may be notified by the Registrar, in writing, to myself or to my counsel (or at the Supreme Court at on day, the day of 19.., at a.m. (p.m.) (and in the meantime to report at the police station at).

And I, the defendant, acknowledge myself bound to forfeit to the Crown the sum of \$..... and I (we) the surety (sureties) acknowledge myself (ourselves) bound to forfeit to the Crown the sum of \$..... (each) in the event that the defendant fails to attend or perform any of his obligations under this bond.

.....
Defendant.

.....
Surety (or Sureties).

Taken before me at this day of 19...

.....
Magistrate (or Justice of the Peace or Registrar or Superintendent of the penal institution in which the defendant is detained).

NOTICE OF BOND

Section 50 (2) (as applied by section 171 (1) and (2)),
Summary Proceedings Act 1957

To the above-named defendant and to the above-named surety (sureties):

FIRST SCHEDULE—continued

NOTICE OF CONVICTION

Form 26

Section 86, Summary Proceedings Act 1957

C.R. No.....

Hearing Date:.....

MAGISTRATE'S COURT

Prosecutor:.....

.....
Office Hours:.....

OFFENCE

[Give brief Particulars]

To [Set out name and address of defendant in postal address form]

TAKE NOTICE that you have been convicted of the above-mentioned offence and on [Insert date] you were

*Fined	..	..	..	\$.....	and ordered to pay
Court costs	..	..	..	\$.....	and
Other [Specify]	..	..	..	\$.....
				<hr/>	
Total	..	..	..	\$.....

*And [Here set out, or annex and refer to, the terms of any order made by the Court for the doing of any other act].

*You are required to pay the total sum shown above on or before [Insert date].

See the back of this form for information about:

- (a) Your right to appeal against the conviction or the sentence or both:
- (b) Your right to apply for an extension of the time allowed for payment:
- (c) The enforcement proceedings that can be taken against you if you do not pay.

Additional Court costs of \$10 will be incurred on the issue of a summons for non-payment.

All payments should be made to:

The Registrar,
Magistrate's Court,
.....

No clearance fee is to be added to cheques.

[Machine receipt will be printed here.]

PLEASE PRODUCE THIS NOTICE WHEN MAKING PAYMENT.

*Delete if inapplicable.

The following information is printed on the back of the form:

NOTICE TO DEFENDANT OF HIS RIGHTS AND OBLIGATIONS

1. *Right of Appeal*—You may appeal to the Supreme Court against your conviction or sentence or both. If you wish to do so you must, within 10 days after the day on which you were sentenced or otherwise dealt with or the order was made, file in this Court a notice in duplicate setting out the grounds of your appeal. Forms may be obtained from the office of the Court.

FIRST SCHEDULE—*continued*

2. *Payment of fines and extension of time to pay*—You are required to pay the total sum owing within 28 days after the day on which you were sentenced.

If you wish to apply for an extension of the time allowed for payment, you may make application to the Registrar of the Court who issued this notice. There is a special form for this which may be obtained from any Registrar. Any such application must be made within 14 days of the day of sentence.

If you apply for an extension of the time allowed for payment you will be required to attend personally at a Court office and be examined as to your means.

3. *Consequences of non-payment*—If you do not pay the total sum owing within 28 days after the day on which you were sentenced or within such further time as may be allowed by the Court or the Registrar, you will receive a summons requiring you to attend personally before the Court for examination as to your means. You will then be obliged to attend and will be arrested if you do not. Following the examination any of the following steps may be taken, namely,—

- (a) The sum unpaid may be obtained by seizing and selling your goods:
- (b) An order may be made requiring your employer to pay part of your salary or wages to the Court:
- (c) You may be disqualified from driving a motor vehicle:
- (d) Any motor vehicle in your possession may be impounded:
- (e) A prohibition order may be made against you:
- (f) You may be imprisoned:
- (g) You may be sentenced to detention in a detention centre:
- (h) You may be made subject to an order for periodic detention:
- (i) You may be released on probation with a direction to undertake community work.

4. *Failure to comply with order of Court*—Failure to comply with any order of the Court may result in your imprisonment or in a further prosecution for an offence being taken against you.

5. *Advice*—If you are in doubt as to your rights or obligations or if you require further information, you should get in touch with your solicitor or the Registrar immediately.

*6. *Disqualification and surrender of licence*—The Court has disqualified you from holding or obtaining a driver's licence and you must surrender your licence FORTHWITH. You may send it to the Ministry of Transport, P.O. Box, Wellington, or hand it to the Registrar of this Court or to a member of the Police or any traffic officer or surrender it at any office of the Ministry of Transport.

*Add this paragraph or annex the information that it contains to the form, if the Court has disqualified the defendant from holding or obtaining a driver's licence.

FIRST SCHEDULE—continued

Form 27

C.R. No.

APPLICATION FOR EXTENSION OF TIME TO PAY

Section 88 (1), Summary Proceedings Act 1957

To the Registrar of the Magistrate's Court at

I, [Full name], of [Address, occupation] hereby make application for an extension of the time allowed by section 84 of the Summary Proceedings Act 1957 within which to pay the sum of money of which particulars are given in the attached statement*. That statement also includes particulars of my means.

.....
(Signature.)

Date:

*The statement is to be in a form for the time being approved by the Secretary for Justice.

Form 28

C.R. No.

SUMMONS FOR NON-PAYMENT OF FINE, ETC.

Section 89 (1) (a), Summary Proceedings Act 1957

To: [Full name], of [Address, occupation].

You are summoned to attend at the Office of the Magistrate's Court at on day, the day of 19.. at a.m. (p.m.) to enable you to be examined as to your means. You are required to bring with you all books of account and other documents relating to your debts.

This summons is issued because of your failure to pay a sum adjudged to be paid on your conviction(s) in the Court at on the day of 19 .. for [Here set out a brief description of the charge].

Full particulars of the amount due are as follows:

			\$
Sum adjudged to be paid	..	..	.....
Court costs	..	..	.....
Cost of summons	..	..	10.00
Other [Specify]	..	..	.....
		
Paid on account	..	..	.....
		
Amount due	..	..	\$.....

If you pay the amount due before the time set by this summons for the examination, you will not be obliged to attend or to be examined as to your means.

Dated at this day of 19 ...

.....
Registrar.

FIRST SCHEDULE—continued

INSTRUCTIONS TO DEFENDANT

1. The Registrar may accept, instead of this examination, a written statement verified by statutory declaration and a form is attached for this purpose. The completed form should be returned to the Registrar before the date set by him for this examination. **Unless you are notified by the Registrar to the contrary you will still be required to attend for examination.**

2. You must unless directed otherwise, appear personally, with or without your counsel or solicitor who may examine yourself and any witnesses, and be heard on the matter of your means.

3. Failure to appear in answer to this summons may result in the issue of a warrant for your arrest.

4. Any person who in examination fails or refuses to answer any question lawfully put to him by the Registrar commits an offence and is liable on summary conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding 3 months.

5. If you are in doubt as to your obligations or wish to know anything further you should get in touch with your solicitor or the Registrar immediately.

6. All correspondence should be addressed to the "Registrar, Magistrate's Court,

The office hours of the Court are



Form 29

C.R. No.....

WARRANT TO ARREST DEFENDANT FOR EXAMINATION AS TO MEANS

Section 89 (1) (b), Summary Proceedings Act 1957

To every constable: (or to [Full name], constable:)

[Full name], of [Address, occupation] (hereinafter called the defendant) was convicted by the Magistrate's Court at on the day of 19.... for [Here set out a brief description of the charge], and ordered to pay the sum of \$ and the sum of \$ for costs.

The defendant has failed to pay these sums (in full). Full particulars of the amount due are as follows:

			\$
Sum adjudged to be paid	..	..	.....
Court costs	..	..	.....
Cost of warrant	..	..	10.00
Other [Specify]	..	..	.....
		
Paid on account	..	..	.....
		
Amount due	..	..	\$ .....

FIRST SCHEDULE—*continued*

Because of his failure to pay the defendant is now liable to be examined as to his means.

I am of the opinion that a warrant is necessary to compel the attendance of the defendant.

AND I DIRECT YOU to arrest the defendant and bring him before a Magistrate's Court as soon as possible to enable him to be orally examined as to his means.

Dated at this day of 19

.....
Registrar.



Form 30

C.R. No.....

SUMMONS TO WITNESS WHERE DEFENDANT IS IN DEFAULT

Section 89 (4), Summary Proceedings Act 1957

To [Full name], of [Address, occupation].

You are summoned to attend at the Office of the Magistrate's Court at on day, the day of 19 .. at a.m. (p.m.) for examination as to the means of [Name of defendant], who has made default in the payment of a sum adjudged to be paid by a conviction.

*You are required to bring with you and produce [Specify what book, paper, or document relating to the affairs or property of the defendant is to be produced].

Dated at this day of 19 ...

.....
Registrar.

*Delete if inapplicable.



Form 31

C.R. No.....

WARRANT TO ARREST WHERE DEFENDANT IN DEFAULT (or WITNESS AS TO MEANS) FAILS TO APPEAR

Section 89 (7), Summary Proceedings Act 1957

To every constable:

(Or To [Full name], constable:)

[Full name], of [Address, occupation], was summoned to attend, at the Office of the Magistrate's Court at on day, the day of 19 .. at a.m. (p.m.) and failed to do so and has offered no just excuse for his failure.

He was to be examined as to his means (or the means of [Name of defendant]).

FIRST SCHEDULE—*continued*

I am satisfied that the summons was duly served (*and that the witness as to the means of the defendant was not required to travel more than 10 miles to attend the hearing or that expenses in accordance with the prescribed scale were tendered to him).

*I DIRECT YOU to arrest the said [*Full name of defendant*] and bring him before a Magistrate's Court to be examined as to his means unless he pays to you the following sum:

	\$
(*Balance of) sum adjudged to be paid .. .. .	.....
Court costs .. .. .	.....
*Cost of issue of summons .. .. .	.....
Other [<i>Specify</i>] .. .. .	.....
Total	\$

*I DIRECT YOU to arrest the said [*Full name of witness*] and bring him before a Magistrate's Court for examination as to the means of [*Full name of defendant*].

Dated at this day of 19...

.....
Registrar.

*Delete if inapplicable.

Form 32

C.R. No.....

ORDER TRANSFERRING ENFORCEMENT TO ANOTHER COURT

To the Registrar of the Magistrate's Court at..... and to [*Full name*], Defendant.

WHEREAS [*Full name*], of [*Address, occupation*] (hereinafter called the defendant) was convicted in this Court on of and was ordered to pay [*Here set out details of fine(s), costs, etc., and of any other order*]:

*And whereas the defendant has made default in payment of the sum(s) adjudged to be paid:

And whereas it appears to me that the conviction (*or order or conviction and order) may be more effectively enforced in the Magistrate's Court at (the Court closest to the defendant's place of residence or for the following reasons [*Set out the reasons for the transfer where enforcement is being transferred to a Court which is not the Court closest to the defendant's place of residence*]):

NOW THEREFORE pursuant to section 91 (1) of the Summary Proceedings Act 1957 (or regulation 15G of the Summary Proceedings Regulations 1958), I HEREBY ORDER that payment of the sum adjudged to be paid shall be enforced in the Magistrate's Court at.....

FIRST SCHEDULE—*continued*

Particulars of the sum now owing are as follows:

	\$
Amount of fine(s) outstanding .. .. .	.....
Court costs .. .. .	.....
Costs of previous executions .. .. .	.....
Other [<i>Specify</i>] .. .. .	.....
Total sum due	\$ <u> </u>

Dated at this day of 19...

.....
Registrar.

NOTE—As from the date of this order all future payments or inquiries should be directed to the Registrar of the Magistrate’s Court to which enforcement has been transferred.

*Delete if inapplicable.

Form 32A
C.R. No.....

ATTACHMENT ORDER

Sections 92 (1) (e) and 95, Summary Proceedings Act 1957

[*Title of proceedings*]

[*Full name*], of [*Address, occupation*] (hereinafter called the defendant) was on the.....day of.....19...convicted of.....in this Court (or the Magistrate’s Court at.....) and ordered to pay the sum of \$.....and the sum of \$..... costs (* and [*Here set out details of any other order(s) made or costs incurred*]).

The defendant has made default in the payment of (*part of) the sum(s) adjudged to be paid.

*The defendant has applied for an extension of the time allowed by section 84 of the Summary Proceedings Act 1957 within which to pay those sums and has given his consent in writing to the making of this order.

*The defendant has made default in the payment of (*part of) those sums and an inquiry into the defendant’s means has taken place under section 89 of the Summary Proceedings Act 1957.

*This order is issued for the purpose of giving effect to the direction of a Magistrate under section 100 of the Summary Proceedings Act 1957.

Particulars of the sum owing (hereinafter called the amount secured) are as follows—

	\$
Fine remaining unpaid .. .. .	.....
Court costs .. .. .	.....
Other [<i>Specify</i>] .. .. .	.....
Amount secured	\$ <u> </u>

FIRST SCHEDULE—*continued*

I am satisfied that [*Full name*] of [*Address*] is the employer of the said defendant.

IT IS HEREBY ORDERED that the amount secured shall, by way of weekly (*or fortnightly or monthly or (as the case may require)*) payments of.per week (*or fortnight or month or (as the case may require)*), be a charge on any salary or wages which from time to time while this attachment order remains in force become due and payable by the said employer to the defendant.

AND THE CHARGE SO CREATED shall attach to all salary or wages which become due by the said employer to the said defendant at any time while this attachment order remains in force, whether the contract of employment in respect of which the salary or wages so become due existed at the date of this order or not, and shall prevail over and have priority to any assignment made or charge created by the defendant, whether before or after the making of this order.

So long as this order remains in force, the employer shall from time to time, so often as any money becomes due and payable by him to the said defendant by way of salary or wages, deduct the sum of.per week (*or fortnight or month or (as the case may require)*), the first deduction to be made on the pay day next following the date upon which a duplicate of this order is served upon the employer (either personally or by leaving it at his place of residence or business, or at any of his places of business, or by registered letter addressed to the employer at his place of residence or business or at any of his places of business). (*Where the defendant is employed by a Department of State, by sending a duplicate of the order by registered letter addressed to the Permanent Head and also referring to the Office of the Crown specified in the order.*)

AND THEREAFTER on every pay day, and to pay the amount so deducted to the Registrar of the Magistrate's Court at until such time as the amount secured is paid or until this order expires, whichever first occurs.

This order shall come into force on the.day of.19.. and expire with the.day of.19..† unless sooner varied, suspended, or discharged.

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

.
Registrar.

*Delete if inapplicable.

†The period of the order must not exceed 12 months.

NOTICE TO EMPLOYER

1. An employer in making any deduction or payment under this order shall not be concerned to make inquiry as to whether any money is due and payable under the conviction (order).

2. Every employer commits an offence who fails, within 14 days after deducting any sum from the wages or salary of any employee, to pay the sum so deducted to the person specified in the order, and is thereupon liable on summary conviction to a fine not exceeding \$50.

FIRST SCHEDULE—continued

3. Where a defendant in respect of whom an attachment order is in force leaves or is dismissed from his employment, the employer is required within 7 days thereof to notify the Registrar of the Magistrate's Court in which this order was issued.

4. If you are in doubt or do not clearly understand your obligations as employer under this order, you should see your solicitor or the Registrar of the Magistrate's Court immediately.



Form 32B

C.R. No.....

CERTIFICATE OF AMOUNT ADJUDGED TO BE PAID BY A CONVICTION AND
REQUEST FOR ISSUE OF A DISTRESS WARRANT

Section 94 (1), Summary Proceedings Act 1957

I CERTIFY that [Full name], of [Address, occupation] (hereinafter called the defendant) was convicted in this Court on the.....day of..... 19..for.....and was ordered to pay the sum of.....and the sum of.....costs (*and [Here set out details of any other order(s) made or costs incurred]).

The defendant has made default in the payment of (*part of) the sum(s) adjudged to be paid.

*I am satisfied, after an inquiry into the defendant's means pursuant to section 89 of the Summary Proceedings Act 1957, that he possesses goods available for seizure.

*This certificate is issued for the purpose of giving effect to the direction of a Magistrate under section 100 of the Summary Proceedings Act 1957. I REQUEST the issue of a distress warrant for the recovery of the sum outstanding, namely—

			\$
Fine remaining unpaid	..	..	.....
Court costs	..	..	.....
Other [Specify]	..	..	.....
		
Total sum due	..	..	\$ .....

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

.....
Registrar.

*Delete if inapplicable.

FIRST SCHEDULE—continued

Form 32c

C.R. No.....

WARRANT FOR SEIZURE OF A MOTOR VEHICLE

Section 97 (1), Summary Proceedings Act 1957

To every bailiff (constable) (Or To [Full name], bailiff (constable)).
[Full name], of [Address, occupation], (hereinafter called the defendant)
was on the.....day of.....19..convicted of.....in the
Magistrate's Court at.....and ordered to pay the sum of \$.....
and the sum of \$.....costs (*and [Here set out details of any other order(s)
made or costs incurred]).

The defendant has made default in the payment of (*part of) the
sum(s) adjudged to be paid.

*I am satisfied, after inquiry into the defendant's means pursuant to
section 89 of the Summary Proceedings Act 1957, that the default in
payment is caused wholly or in part by or through the use of the motor
vehicle described below and that the defendant is lawfully entitled to the
possession of that motor vehicle.

or

*This warrant is issued for the purpose of giving effect to the direction
of a Magistrate under section 100 of the Summary Proceedings Act 1957.
I DIRECT YOU, unless the sum stated below is sooner paid, to seize
[Here give a full description of the motor vehicle] and to deliver it to me (*or to
the Registrar of the Magistrate's Court at.....) for detention until
such time as the total sum due, together with the costs of execution, is
paid, or the Court or I otherwise order.

Particulars of the sum owing are as follows:

			\$
Fine remaining unpaid	..	..	.....
Court costs	..	..	.....
Other [Specify]	..	..	.....
		
Total sum due	..	..	\$ .....

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

.....
Registrar.

*Delete if inapplicable.

Form 32D

C.R. No.....

APPLICATION FOR REVIEW OF REGISTRAR'S DECISION

Section 98 (1), Summary Proceedings Act 1957

[Title of Proceedings]

I, [Full name], of [Address, occupation] HEREBY APPLY for the review by a
Magistrate of [Here set out full details of the order or decision in respect of which
a review is being sought] on the following grounds [Here give full grounds for
application].

FIRST SCHEDULE—*continued*

.....
[Signature]

Date:.....

To the Registrar of the Magistrate's Court at.....And to.....
This application is filed by....., whose address for service
is at

I HEREBY APPOINT.....day, the.....day of.....19..
at.....a.m. (p.m.) at the Magistrate's Court at.....as the time
and place for the hearing of the above application.

.....
Registrar.

DECISION OF MAGISTRATE

Registrar's decision is (*confirmed) (*varied or modified, as follows:
[Give particulars])

.....
Magistrate.

Date:.....



Form 32E

C.R. No.....

WARRANT OF COMMITMENT FOR NON-PAYMENT

Sections 100 (3) (b), 101, and 102, Summary Proceedings Act 1957

To every constable (bailiff) (or To [Full name], constable (bailiff)),

And to the Superintendent of the prison at.....

[Full name], of [Address, occupation] (hereinafter called the defendant) was
on the day of 19.. convicted of in the
Magistrate's Court at and was ordered to pay the sum of
..... and the sum of costs (*and [Here set out details of any
other order made]).

The defendant has made default in the payment of (*part of) the
sum(s) adjudged to be paid.

After considering the report of the Registrar and having regard to the
offence, character, and personal history of the defendant and all the
factors of the case, including any change in the defendant's circum-
stances since his conviction, I am satisfied that the defendant has or has
had sufficient means to pay the sum(s) and that all other methods of
enforcing payment of that sum (or those sums) have been considered or
tried and it appears to me that they are inappropriate or unsuccessful.

I DIRECT YOU, unless the total amount shown at the foot of this
warrant is sooner paid, to arrest the defendant and deliver him to the
prison at, and you, the said Superintendent, to receive the
defendant and to imprison him for a period of unless that
total amount is sooner paid. Particulars of that amount are as follows:

FIRST SCHEDULE—continued

			\$
Fine remaining unpaid	..	..	.....
Court costs	..	..	.....
Costs of previous executions	..	..	.....
Other [<i>Specify</i>]	..	..	.....

Total amount due	..	..	\$ =====

Dated this day of 19..

.....
Magistrate.

*Delete if inapplicable.

Form 32F

C.R. No.....

SUMMONS TO DEFENDANT LIABLE TO DETENTION IN A DETENTION CENTRE,
PERIODIC DETENTION, OR PROBATION FOR NON-PAYMENT OF FINE

Section 100 (4) Summary Proceedings Act 1957

To [*Full name*], of [*Address, occupation*].

You are summoned to appear on day, the day of 19.., at a.m. (p.m.) at the Magistrate's Court at

This summons is issued because of your failure to pay a sum adjudged to be paid on your conviction in the Magistrate's Court at on day, the day of 19.. for [*Here set out a brief description of the charge*].

Because of this failure the Court now proposes to consider, in accordance with sections 100 and 101 of the Summary Proceedings Act 1957, whether it should sentence you to detention in a detention centre or make an order for your periodic detention or for your release on probation with a direction to undertake community work.

Full particulars of the amount due are as follows:

			\$
Sum adjudged to be paid	..	..	.....
Court costs	..	..	.....
Other [<i>Specify</i>]	..	..	.....

Paid on account	..	..	.....

Amount due	..	..	\$ =====

Failure to appear in answer to this summons may result in the issue of a warrant for your arrest.

Dated at this day of 19..

.....
Registrar.

FIRST SCHEDULE—continued

Form 32G

C.R. No.....

WARRANT TO ARREST DEFENDANT LIABLE TO BE SENTENCED FOR NON-PAYMENT OF FINE

Section 100 (4), Summary Proceedings Act 1957

To every constable:

(Or To [Full name], constable:)

[Full name], of [Address, occupation] (hereinafter called the defendant) was on the day of 19.. convicted of in the Magistrate's Court at and was ordered to pay the sum of and the sum of for costs.

The defendant has failed to pay these sums (in full). Full particulars of the amount due are as follows:

		\$	
Sum adjudged to be paid	..	..	.....
Court costs	..	..	.....
Other [Specify]	..	..	.....
		
Paid on account	..	..	.....
		
Amount due	..	.. \$	.....

Because of this failure the Court now proposes to consider, in accordance with sections 100 and 101 of the Summary Proceedings Act 1957, whether it should sentence the defendant to detention in a detention centre or make an order for his periodic detention or for his release on probation with a direction to undertake community work.

I DIRECT YOU to arrest the said [Full name of defendant] and bring him before a Magistrate's Court as soon as possible so that the Court may determine whether to impose any such sentence or to make any such order.

Dated at this day of 19 ...

.....
Magistrate.

Form 45

C.R. No.....

NOTICE TO WITNESS TO ATTEND SUPREME COURT

Section 181, Summary Proceedings Act 1957

To [Full name], of [Address, occupation].

FIRST SCHEDULE—*continued*

TAKE NOTICE that in the event of [*Full name of defendant*] (hereinafter called the defendant) being committed for trial on a charge of you will be required, as a witness, to attend at the Supreme Court at at such time and on such day or days as are notified to you in writing by a constable. Once the case has begun you will be required to attend from day to day until the hearing of the case is completed or you are sooner released by the Court.

If you change your address in the meantime you should notify the Police or the Registrar of the Supreme Court of your new address.

If at the conclusion of the preliminary hearing the defendant is discharged this notice will be cancelled and a notice of cancellation will be given to you either by personal delivery or by registered letter addressed to your last-known place of residence.

Dated at this day of 19 . . .

.
Magistrate
(*or* Justices of the Peace
or Registrar).

NOTE—This notice has the same effect as if it were a summons issued out of the Supreme Court. A person who disobeys a witness summons is punishable for contempt of Court.



Form 45A
C.R. No.

NOTICE OF CANCELLATION OF NOTICE TO WITNESS TO ATTEND SUPREME COURT

Section 181 (6), Summary Proceedings Act 1957

To [*Full name*], of [*Address, occupation*].

TAKE NOTICE—

- (a) That at the conclusion of the preliminary hearing of a charge of, the defendant, [*Full name of defendant*] was discharged; and
- (b) That the notice requiring you to attend at the Supreme Court (which was handed to you at the completion of your evidence) is deemed to be cancelled.

You are no longer required to attend at the Supreme Court at to give evidence on the charge set out above.

Dated at this day of 19 . . .

.
Registrar.

FIRST SCHEDULE—*continued*

Form 48

C.R. No.....

BOND FOR KEEPING THE PEACE

Section 187, Summary Proceedings Act 1957

[Full name], Complainant.

[Full name], Defendant.

COMPLAINT was made by [Full name of complainant] against [Full name of defendant] that [Here set out grounds of complaint].

On an order was made by the Magistrate's Court at that the defendant enter into a bond as follows to keep the peace:
I, [Full name], of [Address, occupation], the defendant, bind myself to perform the following obligations, to keep the peace towards the complainant and to refrain from doing the act feared by the complainant (or from repeating the conduct complained of) (or from doing the act threatened) for the space of from this date.

And I, the defendant, acknowledge myself bound to forfeit to the Crown the sum of \$ (and I (we) [Full name(s), address(es) and occupation(s)], the surety(ies), acknowledge(s) myself (ourselves) bound to forfeit to the Crown the sum of \$ (each)) in the event that the defendant fails to perform any of his obligations under this bond.

....., Defendant.
....., Surety (or Sureties).

Taken before me at this day of 19...

.....
Magistrate
(or Justice of the Peace
or Registrar).

NOTICE OF BOND

Section 187 (3), Summary Proceedings Act 1957

To the above-mentioned defendant and to the above-mentioned surety (sureties):

TAKE NOTICE that if the defendant fails to keep the peace or to perform any of his other obligations under that bond, then you, the defendant, will forfeit the sum of \$..... (and you, the surety (sureties), will forfeit the sum of \$..... (each)).

Dated at this day of 19...

.....
Magistrate
(or Justice of the Peace
or Registrar).

[Not printed]

SECOND SCHEDULE

Reg. 5

NEW SECOND SCHEDULE TO PRINCIPAL REGULATIONS

"SECOND SCHEDULE

Reg. 4 (1)

COURT FEES

	\$
(1) Filing any information or notice of prosecution for a minor offence	3.00
(2) Hearing any information or charge	2.00
(3) Copy of proceedings, per half sheet of foolscap or part thereof—	
Double spacing .. .. .	.50
Single spacing	1.00
or in either case such lower fee as is fixed by the Registrar as reasonable in special circumstances	
(4) Certified copy of entry in criminal record book	1.00
(5) Application for removal of disqualification or for partial exemption from disqualification under the Transport Act 1962	5.00

NOTE—(1) Where pursuant to any enactment several offences are charged in the one information (not being offences charged in the alternative), the fees to be taken shall be assessed as if separate informations had been laid in respect of the several offences charged.

(2) The foregoing fees are not to be taken in proceedings under the Domestic Proceedings Act 1969, or in proceedings by way of complaint or in proceedings under Part V of the Summary Proceedings Act 1957."

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations relate, in the main, to the new procedure for the enforcement of fines which came into force on 1 June 1974.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 6 June 1974.

These regulations are administered in the Department of Justice.