

**“147. Venue**

All civil proceedings shall be heard—

- (a) in the district in which either party or both parties reside; or
- (b) in any other district where—
  - (i) both parties file their written consent with the Court; and
  - (ii) the Magistrate grants leave to do so.”

**14. Section 148 of the principal Act repealed and replaced**

Section 148 of the principal Act is repealed and substituted by the following—

**“148. Magistrate may issue a summons to be served on Defendant- Procedure**

(1) For the purpose of instituting civil proceedings the plaintiff may apply to the Magistrate for a summons and the particulars of claim and of the order claimed shall be endorsed on the back thereof by the Magistrate, and the summons so endorsed shall be filed by the plaintiff and a certified copy thereof issued to him.

(2) The certified copy referred to in subsection (1) shall be served on the defendant by a peace officer by delivering it—

- (a) in person, to the defendant or his attorney-at-law on record;
- (b) if the defendant cannot be conveniently found—
  - (i) to a person at the defendant's last known address or most usual place of residence; or
  - (ii) to the defendant's employer or his departmental head or supervisor at the defendant's place of employment.

(3) Where the peace officer attests that service cannot be effected in the manner referred to in subsection (2), the Magistrate may direct that the defendant be served in a manner which will reasonably enable the defendant to become fully aware of the content of the summons.

**15. Amendment of section 150 of the principal Act**

Section 150 of the principal Act is amended by inserting immediately after subsection (3) the following new subsection—



**MAGISTRATE'S CODE OF PROCEDURE (AMENDMENT) ACT, 2014**

**No. 2 of 2014**

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(2) Notwithstanding section 11, all criminal offences committed in a district shall be tried in the district by the Magistrate assigned to that district.”

**10. Amendment of section 96 of the principal Act**

Section 96 is amended by deleting the words “five hundred” and substituting the words “five thousand”.

**11. Amendment of section 98 of the principal Act**

Section 98(1) of the principal Act is amended by—

- (a) deleting the words “eighteen months” and substituting the words “two years”; and
- (b) deleting the words “two years” and substituting the words “five years”.

**12. Section 116 of the principal Act repealed and replaced**

Section 116 of the principal Act is repealed and replaced by the following—

**“116. Scale of imprisonment in default of payment of fine or of sufficient distress**

The period of imprisonment imposed by a Magistrate under this or any other Act in respect of the non-payment of any sum of money adjudged to be paid by a conviction or in respect of the default of a sufficient distress to satisfy any such sum, shall notwithstanding any enactment to the contrary, be such period which in his opinion will satisfy the justice of the case, but shall not in any case exceed the maximum fixed by the following scale—

Where the sum or sums of money adjudged to be paid-	The said period shall not exceed
Does not exceed \$200	7 days
Exceeds \$200 but does not exceed \$500	14 days
Exceeds \$500 but does not exceed \$1500	2 months
Exceeds \$1500 but does not exceed \$5000	4 months
Exceeds \$5000	6 months

and may be either with or without hard labour in the discretion of the Magistrate.”

**13. Repeal and substitution of section 147 of the principal Act**

Section 147 of the principal Act is repealed and substituted by the following—

(2) A Magistrate assigned to a district may, where the circumstances require, sit at a place appointed outside the district by Order of the Minister.”

#### **7. Section 30 of the principal Act repealed and replaced**

Section 30 of the principal Act is repealed and substituted by the following-

##### **“30. How service is to be proved**

(1) The person who serves a summons shall attend before the Magistrate at the time and place mentioned therein to depose if necessary to the service thereof.

(2) Where a summons is served by a process server, he shall file an affidavit of service setting out the manner of service, the name of the person to whom the summons was delivered, and the date, time and place of service.

(3) Where a summons is served by a bailiff or police officer, he shall endorse a copy of the document setting out the manner of service, the name of the person to whom the summons was delivered, and the date, time and place of service.”

#### **8. Amendment of section 58 of the principal Act**

Section 58(1) of the principal Act is amended by—

(a) repealing paragraph (c) and substituting the following paragraph—

“(c) commit the accused person to the High Court for sentencing, where the accused person indicates his intention to plead guilty to the charge; or” and

(b) inserting a new paragraph immediately after paragraph (c) as follows—

“(d) make any other order in relation to the case, the charge or the accused person as provided for in this Act or any other law.”

#### **9. Section 73 of the principal Act repealed and replaced**

Section 73 of the principal Act is repealed and substituted by the following-

##### **“73. Court House to be an open Court and the hearing of criminal cases**

(1) The place appointed by Order of the Minister under section 11, for the sitting of a Magistrates' Court shall be an open Court.

## **MAGISTRATE'S CODE OF PROCEDURE (AMENDMENT) ACT, 2014**

### **ARRANGEMENT**

#### **Sections**

1. Short title.
2. Interpretation
3. Amendment of section 2 of the principal Act
4. Amendment of section 6 of the principal Act
5. Insertion of new section 7A
6. Section 11 of the principal Act repealed and replaced
7. Section 30 of the principal Act repealed and replaced
8. Amendment of section 58 of the principal Act
9. Section 73 of the principal Act repealed and replaced
10. Amendment of section 96 of the principal Act
11. Amendment of section 98 of the principal Act
12. Section 116 of the principal Act repealed and replaced
13. Section 147 of the principal Act repealed and replaced
14. Section 148 of the principal Act repealed and replaced
15. Amendment of section 150 of the principal Act
16. Section 154 of the principal Act repealed and replaced
17. Section 155 of the principal Act repealed and replaced
18. Section 169 of the principal Act repealed and replaced
19. Repeal of section 172 of the principal Act
20. Amendment of section 173 of the principal Act repealed and replaced
21. Amendment of section 240 of the principal Act repealed and replaced
22. Schedule repealed and replaced

[L.S.]



I Assent,

**Louise Lake-Tack,**  
*Governor-General.*

6th May, 2014

**ANTIGUA AND BARBUDA**

**MAGISTRATE'S CODE OF PROCEDURE (AMENDMENT) ACT, 2014**

**No. 2 of 2014**

**AN ACT** to amend the Magistrate's Code of Procedure Act Cap. 255.

**ENACTED** by the Parliament of Antigua and Barbuda as follows—

**1. Short title**

This Act may be cited as the Magistrate's Code of Procedure (Amendment) Act, 2014.

**2. Interpretation**

In this Act—

“principal Act” means the Magistrate's Code of Procedure Act Cap. 255.

**3. Amendment of section 2 of the principal Act**

Section 2 of the principal Act is amended by repealing the definition of “peace officer” and substituting the following—

“peace officer” includes a police officer, bailiff or a process server employed by an attorney-at-law;”.

**4. Amendment of section 6 of the principal Act**

Section 6 of the principal Act is amended—

(a) in subsection (1), by inserting immediately after the words “more than one district” the words “and may confer on a Magistrate a particular jurisdiction”.

(b) by repealing subsections (2) and (3) and substituting the following—

“(2) Every Magistrate shall have and exercise jurisdiction in the district where he is assigned.

(3) Where more than one Magistrate is assigned to a district each Magistrate shall exercise concurrent jurisdiction in that district with the other Magistrate so assigned.”

**5. Insertion of new section 7A**

The principal Act is amended by inserting immediately after section 7 the following new section—

**“7A. Direction of Magistrates and reporting requirements**

(1) The power to give administrative direction or to exercise administrative control over a Magistrate shall be vested solely —

(a) in the Chief Justice; or

(b) to a person authorised in writing by the Chief Justice to do so.

(2) A Magistrate shall on a monthly basis, make and transmit through the Chief Magistrate to the Chief Justice or to a person designated in writing by the Chief Justice for that purpose, a report in the form and containing the particulars specified by the Chief Justice.

**6. Section 11 of the principal Act repealed and replaced**

Section 11 of the principal Act is repealed and substituted by the following—

**“11. Sittings to be appointed by Order**

(1) The Minister may by Order, appoint a place where and a time when a Magistrate's Court is to be held in any district, for the hearing of particular matters.

- (l) Order for New Trial 20.00
- (m) Affidavit, each oath 10.00
- (n) Appointment of Estimators, under Small Tenements Act 10.00
- (o) Applications for enforcement of judgment debt, garnishee, judgment summons, fi fa, committal etcetera 20.00

**2. BAILIFF'S FEES**

- (a) Service of Summons, Notice or other documents required 10.00
- (b) Arrest under order of Committal Summons, and taking person arrested to prison 20.00
- (c) Seizure of Property under Attachment, Possession or Execution 20.00
- (d) Taking Security or Bail and enquiring into sufficiency thereof 10.00
- (e) Levy fee— 5%, of net proceeds of sale

**3.** Provided that the above mentioned scale shall be varied according to the amount endorsed upon the Statement of Claim as follows-

- (a) Where the amount claimed does not exceed \$400.00 fees shall be reduced by 50%.
- (b) Where Counter Claims are set off against each other, whether for a liquidated amount or not, each claim shall be calculated separately in deciding which scale of fees shall be chargeable therefor.”

Passed by the House of Representatives on the 10th day of February, 2014.

**D. Gisele Isaac-Arrindell,**  
*Speaker.*

**Romona Small,**  
*Clerk to the House of Representatives.*

Passed by the Senate on the 18th day of February, 2014.

**Hazlyn M. Francis,**  
*President.*

**Romona Small,**  
*Clerk to the Senate.*

“(4) The Minister may by Order amend the fees prescribed in the Schedule.”

**16. Section 154 of the principal Act repealed and replaced**

Section 154 of the principal Act is repealed and substituted by the following—

**“154. Costs**

Costs in civil proceedings shall be calculated as follows—

Value of Claim	Costs
\$12,000.00- \$15,000.00	\$2,500.00
Exceeding \$ 8,000.00 but not exceeding \$12,000.00	\$2,000.00
Exceeding \$ 5,000.00 but not exceeding \$8,000.00	\$1,500.00
Exceeding \$ 1,500.00 but not exceeding \$5,000.00	\$1,000.00
\$1,500.00 or less	\$ 500.00”

**17. Section 155 of the principal Act repealed and replaced**

Section 155 of the principal Act is repealed and substituted by the following—

**“155. Execution**

Every judgment or order may be enforced by any method of enforcement which is available at common law and in equity.”

**18. Section 169 of the principal Act repealed and replaced**

Section 169 of the principal Act is repealed and substituted by the following—

**“169. Appeal and application for a stay in Magistrate’s Court**

(1) Where an appeal is filed against a decision, judgment or order of a Magistrate and the appellant seeks a stay of the execution of the decision, judgment or order, the appellant shall within 7 days of the date of filing the appeal, apply to the Magistrate’s Court for the stay and such stay may be granted by the Magistrate with or without conditions.

(2) Where an application for a stay of proceedings made pursuant to subsection (1) is refused by the Magistrate, the appellant may appeal to the High Court.”

**19. Amendment of section 172 of the principal Act**

Section 172(1) of the principal Act is hereby repealed.

**20. Section 173 of the principal Act repealed and replaced**

Section 173 of the principal Act is repealed and substituted by the following—

**“173. Appellant to go at large**

Where the appellant is in custody the Magistrate before whom he appears to enter into a recognisance may, if he considers it proper in the circumstances, release him from custody on his own recognisance or order him to give such other security as he considers appropriate.”

**21. Section 240 of the principal Act repealed and replaced**

Section 240 of the principal Act is repealed and substituted by the following—

**“240. Fees in summary proceedings on information and complaints**

(1) The following fees shall be charged and payable upon proceedings taken and made before a Magistrate—

For entering information or a complaint	\$20.00
For every summons to a defendant	10.00
For every summons to a witness	10.00
For every warrant of arrest	15.00
For every search warrant	15.00
For every warrant of distress	20.00
For every declaration of proof under section 241	10.00

(2) The Magistrate may, if he considers it expedient or in the interests of justice to do so, order any information or complaint to be entered or any summons or warrant to be issued without the payment of any charge.

(3) Notwithstanding the provisions of subsection (1), there shall be no charge in respect of—

- (a) any committal proceedings on an indictable charge;
- (b) any information or complaint by any police officer in the discharge of his public duty; or
- (c) proceedings taken and had before a Magistrate by any Statutory body or any public officer acting in the performance of his duty as such public officer.

(4) The Minister may, by Order amend the fees prescribed in subsection (1).”

**22. Schedule repealed and replaced**

The Schedule of the principal Act is repealed and substituted by the following Schedule-

**“SCHEDULE****1. COURTFEES**

(a) Entering a Suit including Summons and Copy for Service and Judgment	\$30.00
(b) For service by Bailiff of the Court	10.00
(c) Judgment for service by Bailiff of Court	20.00
(d) Court Interpreter's Fees	50.00
(e) Order for leave to sue in another district	20.00
(f) Summons to witness a copy for service	10.00
(g) Executions (Fi, Fa)	20.00
(h) Warrant of distress under Small Trespass Act Or possession or execution under the Small Tenements Act	20.00
(i) Warrant of committal under Small Trespass Act	20.00
(j) Order of attachment of moneys or Garnishee Summons	20.00 (see (o))
(k) Any other Summons, including Copy for Service and Order thereon	30.00