

. ANTIGUA AND BARBUDA



MAGISTRATE’S CODE OF PROCEDURE (AMENDMENT)(NO. 2) BILL, 2026

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AN ACT to amend the Magistrate's Code of Procedure Act, Cap. 255 and for other connected purposes.

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) (No. 2) Act, 2026.

2. Interpretation

In this Act,

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

3. Amendment of section 76 – Where accused liable to imprisonment for more than two years or a fine exceeding \$10,000.00 he or she may claim to be committed for trial

Section 76 of the principal Act is repealed and replaced as follows:

“76. Where accused is liable to imprisonment for more than two years or to payment of a fine exceeding \$10,000.00 he or she may claim to be committed for trial

- (1) Subject to subsection (3), where an accused is charged with any offence punishable on summary conviction with imprisonment for a period exceeding two years or to the payment of a fine exceeding \$10,000.00 the Magistrate shall address him or her to the effect following –

“You are charged with an offence in respect to the commission of which you are entitled if you desire it instead of being dealt with summarily to be tried by at the High Court. Do you desire to be tried at the High Court?”

and he or she shall add a statement if necessary of the meaning of being dealt with summarily and of the probable time at which such person would be tried at the High Court.

- (2) If such person shall elect to be tried at the High Court, the Magistrate shall deal with the case as though such person had been charged with an indictable offence not triable summarily and the offence with which the person is charged shall be deemed to be an indictable offence.
- (3) This section shall not apply to –
- (a) a child, unless to do so would not conflict with the provisions of the Child Justice Act 2015;
 - (b) a person charged with a summary offence under –
 - (i) the Firearms Act, Cap. 171;
 - (ii) the Sexual Offences Act 1995;
 - (iii) the Trafficking in Persons (Prevention) Act 2010; or
 - (iv) the Migrant Smuggling (Prevention) Act 2010;which offences shall be tried summarily or on indictment only on the election of the Director of Public Prosecutions.
 - (c) or interfere with or curtail the summary jurisdiction of Magistrates in trials of offences –
 - (i) under the Small Charges Act;
 - (ii) under the Obeah Act;
 - (iii) where the Magistrate himself or herself is given a direction to try the case summarily or commit the offender for trial for an indictable offence;
 - (iv) under the Sedition and Undesirable Publications Act.”

4. Amendment of section 98 – Consecutive sentences of imprisonment

Section 98 of the principal Act is amended as follows –

- (a) by repealing subsection (1) in its entirety and substituting the following therefor –

“(1) Subject to subsection (1A), where a sentence of imprisonment for a summary offence is passed on any person the Magistrate may order that the sentence shall commence at the expiration of any other term of imprisonment to which that person has been previously sentenced, so, however, that where two or more sentences of a Magistrate are ordered to run consecutively the aggregate term of imprisonment shall not exceed five years, unless such sentences include at least –

- (a) two sentences for indictable offences dealt with summarily by consent; or
- (b) a sentence for an offence for which the Magistrate was empowered to order a term of imprisonment of more than twelve months,

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Magistrate's Code of Procedure Act, Cap. 255, specifically provisions dealing the summary jurisdiction of the Magistrate's Court.

The Bill contains 4 clauses.

Clause 1 and 2: Short title and Interpretation respectively. These are standard clauses.

Clause 3: Amendment of section 76 – Where accused liable to imprisonment for more than two years or a fine exceeding \$10,000.00 he or she may claim to be committed for trial

This clause details with the circumstances under which an accused person charged with a summary offence may choose to be tried at the High Court. The amendment changes the term “tried by a jury” to tried “at the High Court” to take into account the offences that are triable by Judge alone. The section will not be applicable under certain circumstances listed in subsection (3). While subsection (3)(a) and (3)(c) were part of the original exemption, subsection (3)(b) has been introduced and this subsection gives the power to the Director of Public Prosecutions to determine where the trial will take place where the charge is for an offence triable summarily under the Firearms Act, Cap. 171, the Sexual Offences Act 1995, the Trafficking in Persons (Prevention) Act 2010 or the Migrant Smuggling (Prevention) Act 2010.

Clause 4: Amendment of section 98 – Consecutive sentences of imprisonment

This clause provides that a Magistrate may impose consecutive sentences of imprisonment.

Generally, where two or more sentences are ordered to run consecutively, the total term of imprisonment to which a person may be sentenced must not exceed two years. However, where the sentences include at least two sentences for indictable offences dealt with summarily by consent or a sentence for an offence for which the Magistrate was empowered to order imprisonment for a period of more than twelve months, the total term of imprisonment must not exceed seven years. However, the introduction of subsection (1A) increases the jurisdiction of the Magistrate where the charge is for a summary offence under the Firearms Act or the Sexual Offences Act, the total term of imprisonment to which a person may be sentenced is increased to ten years; and in the case where the sentences include at least two sentences for indictable offences dealt with summarily at the election of the Director of Public Prosecutions or a sentence for an offence for which the Magistrate was empowered to order imprisonment for a period of more than two years, then the total term of imprisonment must not exceed fifteen years. Thus the jurisdiction of the Magistrate in terms of imposing sentences has been increased.

Hon. Sir Steadroy C. O. Benjamin KGCN
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