

THE CRIMINAL JUSTICE (ADMINISTRATION)  
ACT

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THE CRIMINAL JUSTICE (ADMINISTRATION)  
ACT

[7th July, 1960.]

Cap. 83.  
Laws  
40 of 1960,  
15 of 1962  
S. 35.  
Acts  
42 of 1963  
S. 2.,  
42 of 1969  
3rd Sch.,  
21 of 1970,  
18 of 1991,  
2 of 1994,  
19 of 2000  
S. 23,  
1 of 2006,  
12 of 2009  
3rd Sch.

Short title.

1. This Act may be cited as the Criminal Justice (Administration) Act.

PART I. *Criminal Procedure*

2.—(1) All indictments preferred at the Circuit Courts shall commence in the appropriate form as set forth in rule 2 of the Schedule to the Indictments Act.

As to indictments to be preferred at the Circuit Courts.

(2) No indictment for any offence shall be preferred unless the prosecutor or other person preferring such indictment has been bound by recognizance to prosecute or give evidence against the person accused of such offence, or unless the person accused has been committed to or detained in custody, or has been bound by recognizance to appear to answer to an indictment to be preferred against him for such offence, or unless such indictment for such offence be preferred by the direction of, or with the consent in writing of a Judge of any of the Courts of this Island, or by the direction or with the consent of the Director of Public Prosecutions, or of the Deputy Director of Public Prosecutions, or of any person authorized in that behalf by the Director of Public Prosecutions.

Directions to be observed in preferring indictments.

(3) It shall be lawful for the Clerk of any Circuit Court to insert in any indictment presented for trial at such Court, any count or counts, being such as may be lawfully joined with the rest of such indictment, if the same be founded (in the opinion of the Court in or before which such indictment is preferred)

up on the facts or evidence disclosed in the examinations or depositions taken before a Resident Magistrate or Justice, in the presence of the person accused, or proposed to be accused by such indictment, and transmitted or delivered to such Court in due course of law.

Director of Public Prosecutions may direct persons bound over for trial at any Circuit Court to be tried before other courts.

3. It shall be lawful for the Director of Public Prosecutions to direct in the case of any person committed or bound over for trial at any Circuit Court, that such person shall be tried before any Resident Magistrate's Court or Justices which or who may have jurisdiction to try such person for the offence for which he is so committed or bound over for trial. Such direction shall be given to the Clerk of the Court before which such person is to be tried, and if such person is in prison notice of such direction shall be given to the Superintendent or other head officer of such prison. The Director of Public Prosecutions shall cause notice of such direction to be given to the witnesses under recognizance, and if the accused is on bail shall cause notice of such direction to be given to such persons and to his bail, and if such notices are so given a reasonable time before the time fixed for the inquiry before the Resident Magistrate's Court or Justices, the witnesses and such person and his bail shall in all respects be in the same position and under the same duties and liabilities as if such witnesses and person had been originally bound over to appear before such Resident Magistrate's Court, or Justices. If such notice is not so served upon such person the original binding over shall stand, and such person shall be tried at the Circuit Court, and all the duties and liabilities of such person and of his bail shall be the same as if no such direction had been given.

Director of Public Prosecutions may enter or direct *nolle prosequi* to be entered.

4.—(1) It shall be lawful for the Director of Public Prosecutions or for the Deputy Director of Public Prosecutions by his direction in writing, in any criminal proceedings whatever before Justices, or before any court having criminal jurisdiction at any time, and whether the person accused has been committed or bound over for trial or not, to enter a *nolle prosequi* to such proceeding, by stating in open Court to such Justice or Court where the proceedings are pending,

or by whom the accused has been committed or bound over for trial, or by informing in writing the Clerk or other proper officer of such Justice or Court that the Crown intends not to continue such proceedings, and thereupon the proceedings shall be at an end. It shall be the duty of such Justices or Court, if the accused has been committed for trial, to cause notice in writing, in the Form A of the Schedule, or to the like effect of such *nolle prosequi*, to be forthwith given to the Superintendent or other head officer of the prison in which the accused is detained, and on receipt of such notice the accused person shall at once be discharged in respect of the charge for which the *nolle prosequi* is entered; and such notice shall be a sufficient authority to the Superintendent or head officer of the prison so to discharge such accused person:

Schedule.

Provided, that such discharge shall not affect the liability to detention on any other charge for which such accused person may be under commitment. After an indictment has been preferred against any person a *nolle prosequi* may be entered in the manner aforesaid, or in the manner heretofore in use:

Provided, that if the accused person is in Court when the *nolle prosequi* is entered, the Court or Justice may direct the release of the accused forthwith.

(2) This section shall not restrict in any way any right or power heretofore possessed by the Attorney-General, which right or power, from and after the 6th of August, 1962, shall vest in the Director of Public Prosecutions.

5. Subject to the provisions of section 3 or section 4, every person who is committed for trial before any Circuit Court shall be brought before the Court for trial not later than the second Circuit held at the place to which such person is committed for trial after such person is so committed unless the Court or a Judge otherwise orders.

Persons committed for trial to be brought for trial not later than the second Circuit after their commitment.

No person entitled to postpone trial.

6. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment presented against him in a Circuit Court :

Provided always, that if the Court, upon the application of the person so indicted, or otherwise, shall be of opinion that he ought to be allowed further time, either to prepare for his defence or otherwise, such Court may adjourn the trial of such person for such time, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly; in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such time, without entering into any fresh recognizance for that purpose.

Plea of *autrefois convict*, etc.

7. In any plea of *autrefois convict* or *autrefois acquit*, it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the indictment, without setting out the same in any formal manner.

Trial of offences committed near parish boundaries or on journeys.

8.—(1) Where any felony or misdemeanour shall be committed on the boundary or boundaries of two or more parishes, or within the distance of five hundred yards of any such boundary or boundaries, or shall be begun in one parish and completed in another, every such felony or misdemeanour may be dealt with, inquired of, tried, determined and punished in any of the said parishes in the same manner as if it had been actually and wholly committed therein.

(2) Where any felony or misdemeanour shall be committed on any person, or on or in respect of any property, in or upon any coach, waggon, cart, or other carriage whatever employed in any journey, or shall be committed on any person, or on or in respect of any property on board any vessel whatever employed on any voyage or journey upon any navigable river, canal, or inland naviga-

tion, such felony or misdemeanour may be dealt with, inquired of, tried, determined and punished in any parish through any part whereof such coach, waggon, cart, carriage or vessel shall have passed in the course of the journey or voyage during which such felony or misdemeanour shall have been committed, in the same manner as if it had been actually committed in such parish; and in all cases where the side, centre, or other part of any highway, or the side, bank, centre or other part of any such river, canal, or navigation shall constitute the boundary of any two parishes, such felony or misdemeanour, may be dealt with, inquired of, tried, determined and punished in either of the said parishes through or adjoining to or by the boundary of any part whereof such coach, waggon, carriage, or vessel shall have passed in the course of the journey or voyage during which such felony or misdemeanour shall have been committed, in the same manner as if it had been actually committed in such parish.

9.—(1) Every person who commits any indictable offence may be proceeded against, indicted, tried, and punished in any parish or place in which such person may be apprehended, or may be in custody for such offence, or may appear in answer to a summons lawfully issued charging the offence, as if the offence had been committed in that parish or place, and the offence shall for all purposes incidental to or consequential upon the prosecution, trial, or punishment thereof, be deemed to have been committed in that parish or place.

Venue of  
indictment.

(2) Every person who commits two or more indictable offences may be proceeded against, indicted, tried and punished in respect of all those offences in any parish or place in which such person could be proceeded against, indicted, tried or punished in respect of any one of those offences, and all the offences with which that person is charged shall, for all purposes incidental to, or consequen-

tial upon, the prosecution, trial or punishment thereof, be deemed to have been committed in that parish or place.

Person upon being arraigned pleading "not guilty".

**10.**—(1) If any person, being arraigned upon any indictment for treason, felony, or piracy, shall plead thereto a plea of "not guilty", he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial, and the Court shall in the usual manner order a jury for the trial of such person accordingly.

(2) Where a prisoner is arraigned on an indictment for any offence, and can lawfully be convicted on such indictment of some other offence not charged in such indictment, he may plead not guilty of the offence charged in the indictment, but guilty of such other offence.

Plea of "not guilty" to be entered when person arraigned stands mute of malice, or will not answer directly.

**11.** If any person, being arraigned upon or charged with any indictment or information for treason, felony, piracy, or misdemeanour, shall stand mute of malice, or will not answer directly to the indictment or information, in every such case it shall be lawful for the Court, if it shall so think fit, to order the proper officer to enter a plea of "not guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

Provision against defeat of justice in consequence of technical niceties.

**12.** No judgment upon any indictment or information for any felony or misdemeanour, whether after verdict or by confession, default, or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved; nor for the omission of the words, "as appears by the record", or of the words "with force and arms"; or of the words, "against the peace"; nor for the insertion of the words, "against the form of the Law", instead of the words, "against the form of the Laws", or *vice versa*; nor for that any person or persons mentioned in the indictment or information is or are designated by a

name of office or other descriptive appellation instead of his, her, or their proper name or names; nor for omitting to state the time at which the offence was committed, in any case where time is not of the essence of the offence; nor for stating the time imperfectly; nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or exhibiting the information, or on an impossible day, or on a day that never happened; nor for want of a proper or perfect venue, where the Court shall appear by the indictment or information to have had jurisdiction over the offence.

**13.** No judgment after verdict, upon any indictment or information for any felony or misdemeanour, shall be stayed or reversed for want of a similitur, nor by reason that the jury process has been awarded to a wrong officer upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the jury who has not been returned as a juror by the proper officer; and where the offence charged has been created by any enactment, or subjected to a greater degree of punishment by any enactment, the indictment or information shall, after verdict, be held sufficient to warrant the punishment prescribed by the enactment, if it describe the offence in the words of the enactment.

No judgment after verdict to be stayed or reversed for the want of a similitur, etc.

**14.** Whenever sentence shall be passed for any offence on a person already imprisoned under sentence for another crime, it shall be lawful for the Court to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced.

Consecutive sentences.

**15.—(1)** If, on the trial of any person charged with any felony or misdemeanour, it shall appear to the jury, upon the evidence, that the defendant did not complete the offence

On trial of indictment for felony or misdemeanour.

charged, but that he was guilty only of an attempt to commit the same such person shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanour charged, but is guilty of an attempt to commit the same; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanour charged in the said indictment; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanour for which he was so tried.

(2) If, upon the trial of any person for any misdemeanour, it shall appear that the facts given in evidence amount in law to a felony, such person shall not, by reason thereof, be entitled to be acquitted of such misdemeanour; and no person tried for such misdemeanour shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony; in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanour.

(3) If, upon the trial of any indictment for any felony, except murder or manslaughter, where the indictment shall allege that the defendant did cut, stab, or wound any person, the jury shall be satisfied that the defendant is guilty of the cutting, stabbing, or wounding charged in such indictment, but are not satisfied that the defendant is guilty of the felony charged in such indictment, then, and in every such case, the jury may acquit the defendant of such felony, and find him guilty of unlawfully cutting, stabbing, or wounding, and thereupon such defendant shall be liable to be punished in the same manner as if he had been

convicted upon an indictment for the misdemeanour of cutting, stabbing, or wounding.

16. Whenever any person shall be convicted in any of the Courts of Record in this Island of—

- (a) any aggravated assault; or
- (b) any riot; or
- (c) any unlawful resistance to a Magistrate or Peace Officer, or any Officer of the Customs, or any Officer of the Revenue, in the due discharge and execution of his or their respective duty or duties; or
- (d) any assault upon any person or persons acting in aid of any such officer or officers in the due discharge and execution of his or their respective duty or duties; or
- (e) any aggravated breach of the peace by unlawfully entering the premises of any person whatsoever; or
- (f) keeping a common gaming house, or common bawdy house, or a common ill-governed and disorderly house; or
- (g) assisting at any seditious meeting; or
- (h) maiming or injuring any person by furious driving, riding, galloping, or racing; or
- (i) inciting to mutiny by endeavouring to seduce a soldier or a seaman from his allegiance; or
- (j) attempting to bribe a Constable or Officer of the Peace; or
- (k) any extortion of illegal fees; or
- (l) slanderous words to a Magistrate in the due discharge of the duties of his office; or
- (m) disturbing public worship; or
- (n) dissuading witnesses from giving evidence; or

Certain offences punishable with or without hard labour.

(o) striking in or within the precincts of an open Court;  
or

(p) beating or ill-treating apprentices; or

(q) selling cloth falsely marked or put up,

in each and every of such cases, and upon conviction of an offender of any or either of the aforesaid offences, it shall and may be lawful for the Court before which any such offender shall be convicted, to award and order sentence of imprisonment, with or without hard labour, for such term as in the discretion of the Court shall seem meet.

Persons convicted of certain misdemeanours may, in addition to imprisonment, be sentenced to hard labour.

17. Whenever any person shall be convicted of any one of the offences following as an indictable misdemeanour, that is to say—

(a) any cheat or fraud punishable at common law;

(b) any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime or to obstruct, prevent, pervert, or defeat the course of public justice;

(c) any escape or rescue from lawful custody on a criminal charge;

(d) any public and indecent exposure of the person;

(e) any public selling, or exposing for public sale or to public view, of any obscene book, print, or other indecent exhibition,

it shall be lawful for the Court to sentence the offender to be imprisoned for any term now warranted by law, and, if the Court shall deem fit, also to be kept to hard labour during the whole, or any part of such term of imprisonment.

Punishment for common law misdemeanours.

18. Every person who commits an offence which is an indictable misdemeanour at common law shall be liable, save where there is express provision in any enactment to the contrary, on conviction thereof to imprisonment with hard labour for any term not exceeding two years.

**19.** Wherever in any enactment a Court is empowered to impose a sentence of penal servitude for any offence, the Court in place thereof may, notwithstanding anything in any enactment to the contrary, impose for such offence a sentence of imprisonment with hard labour for any term not exceeding the term for which such sentence of penal servitude might have been imposed.

Power to impose imprisonment with hard labour in place of penal servitude.

**20.** It shall be lawful for the Supreme Court and the Circuit Court, and every Judge thereof, at all times to amend all defects and errors in any proceeding in criminal cases, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not; and all such amendments may be made upon such terms as to the Court or Judge may seem fit; and all such amendments as may be necessary for the purpose of determining in the existing proceeding the real question in issue shall be so made. This section shall apply to the Court of Appeal and to proceedings in criminal cases on appeal to that Court as it applies to the Supreme Court and to proceedings in criminal cases in that Court.

Power to amend errors and defects in criminal cases.

15/1962  
S. 35.

**21.** No indictment in any Circuit Court shall, after a conviction thereon, be quashed in any proceeding in the Supreme Court for any error or defect in form or substance appearing in such indictment, unless the point was raised at the trial, or the Court is of opinion that such error or defect has or may have caused, or may cause injustice to the person convicted.

No indictment shall be quashed for error or defect in form or substance unless point raised at trial.

**22.—(1)** Where, in relation to offences triable summarily—

Joint trial in summary cases.

- (a) persons are accused of similar offences committed in the course of the same transaction; or
- (b) persons are accused of an offence and persons are accused of aiding and abetting the commission of such offence, or of an attempt to commit such offence; or

- (c) persons are accused of different offences committed in the course of the same transaction, or arising out of the same, or closely connected, facts,

they may be tried at the same time unless the Court is of the opinion that they, or any one of them, are likely to be prejudiced or embarrassed in their, or his defence by reason of such joint trial.

(2) Where, in relation to offences triable summarily—

- (a) a person is charged with two or more offences arising out of acts so connected as to form the same transaction; or
- (b) 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, and a person is charged with each or any of such offences,

such charges may be tried at the same time unless the Court is of the opinion that such person is likely to be prejudiced or embarrassed in his defence by reason of such joinder.

Certain proceedings to be *in camera*.  
42/1963  
S. 2.

**23.**—(1) At any proceedings in relation to any offence to which this section applies the public shall in the interest of public morality be excluded during the hearing, so, however, that the passing of sentence shall in any case take place in public.

(2) The offences to which this section applies are—

- (a) offences against sections 3, 4, 5, 10, 13 and 18 of the Sexual Offences Act;
- (b) offences against section 39 or section 40 of the Larceny Act where the felony committed in the dwelling-house or, as the case may be, in any such place as is mentioned in paragraph (1) of the said section 40 is rape.

12/2009  
3rd Sch.

24.—(1) Any person employed in the service of the Government of Jamaica who commits, in a country other than Jamaica, when acting or purporting to act in the course of his employment, any offence which, if committed in Jamaica, would be punishable on indictment, shall be guilty of an offence of the same nature, and subject to the same nature, and subject to the same punishment, as if the offence had been committed in Jamaica; and the offence shall, for all purposes incidental to or consequential on the trial or punishment thereof, including, without prejudice to the generality of the foregoing, the jurisdiction of Resident Magistrates pursuant to section 267 of the Judicature (Resident Magistrates) Act, be deemed to have been committed in any parish or place in Jamaica in which the offender is apprehended or is in custody or may appear in answer to a summons lawfully issued charging the offence.

Jurisdiction in respect of indictable offences committed overseas by persons acting in the service of the Government. 21/1970 S.2.

(2) A prosecution for an offence under subsection (1) shall not be instituted except by or with the consent of the Director of Public Prosecutions:

Provided that a person may be charged with such an offence and arrested, or a warrant for his arrest may be issued, and he may be remanded in custody or on bail, notwithstanding that the consent of the Director of Public Prosecutions to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

#### *Fitness to Stand Trial*

25.—(1) In this section, sections 25A to 25E and the Fifth, Sixth and Seventh Schedules—

Determination of fitness. 1/2006 S. 2. Fifth, Sixth and Seventh Schedules.

“approved medical practitioner” means a duly qualified medical practitioner approved for the purposes of section 7 of the Mental Health Act as having special experience in the diagnosis or treatment of mental disorder;

“defendant” means a person charged before a court with an offence;

“fitness” means fitness to stand trial (including fitness to plead) and the words “fit” and “unfit” shall be construed accordingly;

“psychiatric facility” has the meaning assigned to it by section 2 of the Mental Health Act.

(2) Where at any stage of criminal proceedings any question arises as to the fitness of a defendant, the Court may of its own motion, or on the application of the defendant or the prosecutor, direct that the issue of the fitness of the defendant be tried.

(3) Where the issue of the defendant’s fitness arises—

(a) before the close of the case for the prosecution at a preliminary enquiry, the Court shall postpone a direction under subsection (2) until a time that is not later than the time that the defendant is called on to answer the charge; or

(b) before the close of the case for the prosecution at a trial, the Court may postpone a direction under subsection (2) until—

(i) a time not later than the opening of the case for the defence; or

(ii) on the motion of the defendant, any later time that the Court may direct.

(4) The issue of fitness shall not be tried in relation to a defendant where—

(a) pursuant to subsection (3), the Court has postponed a direction that the issue be tried; and

(b) the defendant is discharged or acquitted before the issue is tried.

(5) Where the Court makes a direction under subsection (2) in any case where a defendant is not represented by

counsel, the Court may grant a legal aid certificate in such circumstances as may be prescribed.

**25A.**—(1) Subsections (2) and (3) shall apply where a direction is made under section 25(2) in the case of a defendant who is being tried, or is to be tried, before a court composed of a Judge and jury.

Trial of issue  
of fitness.  
1/2006.  
S. 3.

(2) If the direction is made—

(a) before the defendant is given in charge to the jury for trial on indictment, a jury composed of the number of jurors required in respect of the indictment shall be sworn to try that issue and, if the defendant consents, the issues to be tried on the indictment;

(b) after the defendant has been given in charge to the jury for trial on indictment, the jury shall be sworn to try the issue of fitness in addition to the issues in respect of which the jury is already sworn.

(3) The issue of fitness shall be put to a jury using the form of words set out in Form A of the Fourth Schedule, and the oath to be sworn to by the jury shall be in the form of words set out in Form B of the Fourth Schedule.

Fourth  
Schedule.  
Form A.  
Form B.

(4) Where the issue of fitness arises in respect of a defendant—

(a) who is being tried, or is to be tried, before a court other than a court composed of a judge and jury; or

(b) in any other criminal proceedings at any stage other than those referred to in subsection (2),

the court shall try the issue and render a verdict.

(5) A court or jury, as the case may require, shall not

arrive at a verdict on the issue of the fitness of a defendant except on the written or oral evidence of two or more duly qualified medical practitioners, at least one of whom is an approved medical practitioner.

Proceedings  
after verdict  
of fitness.  
1/2006  
S.3.

**25B.** Where the verdict on trial of the issue of fitness is that the defendant is fit—

- (a) criminal proceedings shall continue in respect of the defendant as if the issue had never arisen; and
- (b) if the defendant is detained in custody on delivery of the verdict—
  - (i) the Court may grant bail to the defendant in accordance with the provisions of the Bail Act;
  - (ii) if the Court has reasonable grounds to believe that the defendant is likely to become unfit to stand trial if released, the Court may order that the defendant be detained in a psychiatric facility or such other place as the Court thinks fit until the completion of the trial; or
  - (iii) the Court may make such other order in respect of the defendant as it thinks appropriate.

Proceedings  
where  
defendant is  
unfit.  
1/2006  
S.3.

**25C.—**(1) Where the verdict on trial of the issue of fitness is that the defendant is unfit—

- (a) any plea that has been made shall be set aside and any jury empanelled in respect of the case shall be discharged; and
  - (b) the Court may make such order under subsection (2) as it thinks most suitable in all the circumstances of the case.
- (2) The Court may—

- (a) order that the defendant be remanded in custody at the Court's pleasure;
- (b) order, in accordance with the provisions of the Fifth Schedule, that the defendant be admitted, at the Court's pleasure, to a psychiatric facility named in the order; Fifth Schedule.
- (c) make, in accordance with the provisions of the Sixth Schedule, a supervision and treatment order in respect of the defendant; Sixth Schedule.
- (d) make, in accordance with the provisions of the Seventh Schedule, a guardianship order in respect of the defendant. Seventh Schedule.

(3) A verdict of unfit to stand trial shall not prevent the defendant from being tried subsequently if he becomes fit.

**25D.**—(1) Every order made under section 25C (2) (a) (order for remand of unfit defendant) shall include provision requiring the Commissioner of Corrections to submit to the Court, at least once in every calendar month, a report on the condition of the defendant in respect of whom the order is made. Periodic reports regarding unfit defendant. i/2006. S.3.

(2) Each report submitted under subsection (1) shall be reviewed by—

- (a) in the case of the Supreme Court, a Judge of the Supreme Court;
- (b) in the case of a Resident Magistrate's Court, a Resident Magistrate,

who shall give such directions as he thinks fit having regard to the contents of the report.

(3) The Registrar of the Supreme Court, or in the case of a Resident Magistrate's Court the Court Administrator, shall—

Fourth  
Schedule.  
Form C.

(a) keep a register, in accordance with Form C of the Fourth Schedule, setting out—

(i) the name of each person in respect of whom the Court makes an order under section 25C;

(ii) the type of order made; and

(iii) a summary of each report received under this section; and

(b) bring to the attention of the Court the fact of any failure to submit a report required under subsection (1), within seven days after the expiration of the time allowed for the submission of the report.

(4) Where the Commissioner of Corrections fails to submit to the Court any report required under subsection (1), the Court shall—

(a) ascertain from the Commissioner of Corrections the reason for the failure; and

(b) issue such directions as the Court thinks fit in order to secure the submission of the report to it.

(5) For the purposes of subsection (4) (a), the Court may direct the Commissioner of Corrections to attend before it and to explain, upon oath or affirmation, the reason for the failure.

Special verdict  
in case of  
mental  
disorder.  
1/2006.  
S. 3.

**25E.**—(1) Subject to subsection (2), where in any indictment or information any act or omission is charged against any defendant as an offence and—

(a) it is given in evidence on the trial of the defendant for that offence that the defendant is suffering from a mental disorder so as not to be responsible according

to law for his actions at the time when the act was done or omission made; and

- (b) it appears to the Resident Magistrate, Judge or the jury, as the case may require, before whom the defendant is being tried, that the defendant did the act or made the omission charged, but was suffering from a mental disorder as aforesaid at the time when the act was done or omission made, the Resident Magistrate, Judge or the jury shall return a special verdict to the effect that the defendant was guilty of the act or omission charged against him, but was suffering from a mental disorder as aforesaid at the time when the act was done or omission made.

(2) A Resident Magistrate, Judge or jury, as the case may require, shall not return a special verdict under subsection (1) except upon the written or oral evidence of two or more duly qualified medical practitioners, at least one of whom is an approved medical practitioner.

(3) Where a special verdict is returned under subsection(1), the Court before which the trial has taken place shall—

- (a) order the defendant to be kept in custody, at the Court's pleasure, as a forensic psychiatric inmate in such place and in such manner as the Court thinks fit;
- (b) make a supervision and treatment order in respect of the defendant, in accordance with the provisions of the Sixth Schedule; or
- (c) make a guardianship order in respect of the defendant, in accordance with the provisions of the Seventh Schedule.

Sixth  
Schedule.

Seventh  
Schedule.

(4) An order under subsection (3) (a) may include—

- (a) directions for the defendant to submit to treatment by or under the direction of an approved medical practitioner with a view to the improvement of the defendant's mental condition; and
- (b) such ancillary directions as may be necessary for that purpose.

(5) The responsible officer shall submit, in accordance with Form D of the Fourth Schedule, a report on the condition of a defendant in respect of whom an order is made under subsection (3)—

- (a) to the Court that made the order, at least once in every six months for the duration of the order; and
- (b) to a court exercising, pursuant to the provisions of this Act, a power to amend or revoke any such order, upon the request of that court,

and shall give a copy of the report to the Director of Public Prosecutions and the defendant.

(6) In subsection (5), “responsible officer” means—

- (a) in the case of an order under subsection (3) (a) (order for accused to be kept in custody), the Commissioner of Corrections;
- (b) in the case of an order under subsection (3) (b) (supervision and treatment order), the supervising officer;
- (c) in the case of an order under subsection (3) (c) (guardianship order), the person named in the order as guardian.

(7) After considering a report submitted under subsection (5), and hearing the Director of Public Prosecutions and any representations made by or on behalf of the defendant, the Court may—

- (a) confirm the order made under subsection (3);
- (b) make such other order under subsection (3) in respect of the person as the Court considers appropriate; or
- (c) revoke the order made under subsection (3) and discharge the defendant.

(8) Where the responsible officer fails to submit to the Court any report required under subsection (5), the Court shall—

- (a) ascertain from the responsible officer the reason for the failure; and
- (b) issue such directions as the Court thinks fit in order to secure the submission of the report to it.

(9) For the purposes of subsection (8) (a), the Court may direct the responsible officer to attend before it and to explain upon oath or affirmation, the reason for the failure.

(10) For the purposes of subsection (7), representations may be made on behalf of the defendant by—

- (a) his attorney-at-law; or
- (b) a near relative of the defendant.

(11) In this section, “mental disorder” has the meaning assigned to it by section 2 of the Mental Health Act.

26. [Repealed by Act 1 of 2006.]

27. [Repealed by Act 1 of 2006.]

28. [Repealed by Act 1 of 2006.]

### *Continuous Bail*

29. Where a person is remanded on bail the recognizance may be conditioned for his appearance at every time and place

Continuous bail.

to which during the course of the proceedings the hearing may be from time to time adjourned, without prejudice, however, to the power of the Court to vary the order at any subsequent hearing.

*Abolition of Presumption of Coercion*

Abolition of presumption of coercion of married woman by husband.

30. Any presumption of law that an offence committed by a wife in the presence of her husband is committed under the coercion of the husband is hereby abolished, but on a charge against a wife for any offence, other than treason or murder, it shall be a good defence to prove that the offence was committed in the presence of and under the coercion of the husband.

*Crown Witnesses Leaving Island*

Crown witnesses may be required not to quit the Island before giving evidence.

31.—(1) It shall be lawful for the Supreme Court, or for any Judge thereof at Chambers on being satisfied that any person under recognizance to appear to give evidence in any criminal proceeding for the Crown or for the accused is likely to leave Jamaica before he has appeared to give such evidence, to order that such person shall give security that he will not leave Jamaica until he has duly appeared to give such evidence, and in default of such security the Court or Judge may, if it or he think fit, order that such person shall be detained until such security is given, or such person has given or appeared to give evidence in such criminal proceeding.

(2) When any person has given security, or been detained under subsection (1), it shall be lawful for the Court, after such person shall have given or duly appeared to give his evidence, to order payment to such witness of such sum of money as may appear to the Court reasonable, to reimburse such person for the expense and loss of time caused by his being so kept in Jamaica. Such order for payment shall be made and paid in all respects in the same way that other orders for the payment of witnesses on criminal trials are paid and made:

Provided that no such order shall be made unless the Court is satisfied that the witness would have left Jamaica if he had not been compelled to give security or been detained.

*Proof of Previous Conviction*

32.—(1) Any previous conviction may be proved in any legal proceeding whatever against any person by producing a certificate of such conviction, and by giving proof of the identity of the person against whom the conviction is sought to be proved with the person appearing in the certificate to have been convicted. Such certificate, in the case of an indictable offence, shall contain the substance and effect only (omitting the formal part of the indictment and conviction), and purport to be signed by the Clerk of the Court or other officer having the custody of the records of the Court by which such conviction was made, or purport to be signed by the deputy of such Clerk or officer, and shall, in the case of a summary conviction be a copy of such conviction, purporting to be signed by any Justice having jurisdiction over the offence in respect of which such conviction was made, or to be signed by the Clerk or other proper officer of the Court by which such conviction was made. Such certificate shall be admissible in evidence without proof of the signature or official character of the person appearing to have signed the same. The mode of proving a previous conviction authorized by this section shall be in addition to, and not in exclusion of any other authorized mode of proving such conviction.

Manner of proving previous conviction as well as identity of the person charged, etc.

(2) The proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows, that is to say, the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he plead not guilty, or if the Court order a plea of not guilty to be entered on his behalf, the jury shall be charged in the first instance to inquire concerning such subsequent offence only; and if they find him guilty, or if, on arraignment he plead guilty, he shall then, and not before, be asked whether he had been previously convicted as alleged in the indict-

ment; and if he answer that he had been so previously convicted, the Court may proceed to sentence him accordingly; but if he deny that he had been so previously convicted, or stand mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions; and, in such case, it shall not be necessary to swear the jury again, but the oath already taken by them shall, for all purposes, be deemed to extend to such last-mentioned inquiry :

Provided that if, upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty is returned; and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

*Prohibition of Photographing of Prisoners*

Offences.

33.—(1) No person shall—

- (a) take or attempt to take in any Court any photograph, or with a view to publication make or attempt to make in any Court any portrait or sketch of any prisoner; or
  - (b) publish any photograph, portrait or sketch taken or made in contravention of the foregoing provisions of this section or any reproduction thereof;
- and if any person acts in contravention thereof he shall be guilty of an offence and shall on summary conviction before a Resident Magistrate be liable to a fine not exceeding twenty dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding one month.

(2) for the purposes of this section—

- (a) "Court" means any Court of Justice including the Court of a coroner;
- (b) "prisoner" means any person whether on bail or in the custody of the police who is charged with a criminal offence;
- (c) a photograph, portrait or sketch shall be deemed to be a photograph, portrait or sketch taken or made in Court if it is taken or made in the Court-room or in the building or in the precincts of the building in which the Court is held, or if it is a photograph, portrait or sketch taken or made of the prisoner while he is on his way to or on his way from the Court-room or any such building or precincts as aforesaid.

*As to Accessories Before the Fact*

**34.** Whosoever shall become an accessory before the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or law passed or to be passed, may be indicted, tried, convicted, and punished in all respects as if he were a principal felon.

Accessories before the fact may be tried and punished as principals.

**35.** Whosoever shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law, or by virtue of any Statute passed or to be passed, shall be guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted, as an accessory, may be punished.

Accessories before the fact may be indicted as such or as substantive felons.

*As to Accessories After the Fact*

Accessories after the fact may be indicted as such, or as substantive felons.

**36.** Whosoever shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any Statute passed or to be passed, may be indicted and convicted either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon, shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted, as an accessory, may be punished.

Punishment of accessories after the fact.

**37.** Every accessory after the fact to any felony (except where it is otherwise specially enacted), whether the same be a felony at common law, or by virtue of any Statute passed or to be passed, shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding two years, with or without hard labour; and it shall be lawful for the Court, if it shall think fit, to require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace in addition to such punishment:

Provided, that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

*As to Accessories Generally*

Prosecution of accessory after principal has been convicted, but not attainted.

**38.** If any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die, or be pardoned, or otherwise delivered before attainder; and every such accessory shall, upon conviction, suffer the same

punishment as he would have suffered if the principal had been attainted.

39. Any number of accessories at different times to any felony, and any number of receivers at different times of property, stolen at one time, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Several accessories may be included in the same indictment although principal felon not included.

#### *Venue*

40. When any felony shall have been wholly committed within Jamaica, the offence of any person who shall be an accessory either before or after the fact to any such felony may be dealt with, inquired of, tried, determined, and punished, by any Court which shall have jurisdiction to try the principal felony or any felonies committed in any parish or place in which the act by reason whereof such person shall have become such accessory shall have been committed; and in every other case the offence of any person who shall be an accessory either before or after the fact to any felony may be dealt with, inquired of, tried, determined, and punished by any Court which shall have jurisdiction to try the principal felony or any felonies committed in any parish or place in which such person shall be apprehended, or be in custody, whether the principal felony shall have been committed on the sea or on the land, or begun on the sea and completed on the land, or begun on the land and completed on the sea, and whether within the Commonwealth or without, or partly within the Commonwealth and partly without:

Trial of accessories.

Provided, that no person who shall be once duly tried either as an accessory before or after the fact, or for a substantive felony under the provisions hereinbefore contained, shall be liable to be afterwards prosecuted for the same offence.

*As to Abettors in Misdemeanours*

Abettors in  
misdemean-  
ours.

41. Whosoever shall aid, abet, counsel, or procure the commission of any misdemeanour, whether the same be a misdemeanour at common law, or by virtue of any Statute passed or to be passed, shall be liable to be tried, indicted, and punished as a principal offender.

*Vice-Admiralty Jurisdiction, Offences Within*

Vice-  
Admiralty  
jurisdiction.

42. Every person who—

- (a) commits any indictable offence within the jurisdiction of the Vice-Admiralty of Jamaica; or
- (b) within the jurisdiction of the Vice-Admiralty of Jamaica becomes an accessory to any felony, whether such felony be committed within or without, or partly within and partly without, such jurisdiction,

shall be deemed for all purposes incidental to, or consequential on, the prosecution, trial, or punishment, of such person to have committed such offence upon the land in Jamaica. In any indictment for such offence the offence shall be averred to have been committed on the high seas:

Provided that nothing herein contained shall alter or affect any of the enactments relating to the government of Her Majesty's land, naval or air forces.

PART II. *Habitual Criminals*

Register of  
criminals.

42/1969  
3rd Sch.

43. For the better supervision of criminals, a register of all persons convicted of crime in this Island shall be kept under the management of the Commissioner of Police, or of such other person, and in such place as the Minister may appoint, and in such form, with such evidence of identity, and containing such particulars, and subject to such regulations as may from time to time be presented by the Minister: all expenses incurred, with the sanction of the Minister,

in keeping such register, shall be paid out of the Consolidated Fund.

44. In order to make such register complete, and to make the supervision over criminals effectual, the Superintendents or other head officers of the several prisons, and the Superintendent of the General Penitentiary, and the Chief Officer of Police in every parish shall, from time to time, make returns to the Minister, or to such person or persons as he may appoint, in such manner, and at such time, and containing such evidence of identity, and other information with respect to persons convicted of crime, as the Minister may from time to time direct; all expenses incurred in carrying this section into effect, with the sanction of the Minister or person authorized by the Minister, shall be charged on the Consolidated Fund, and be defrayed accordingly.

Returns for purposes of register.

45. The Clerks of the Circuit and Resident Magistrates' Courts shall make returns of persons convicted of any criminal offences in such Courts respectively, at such times, in such manner and, to such persons, as the Minister may from time to time direct.

Official returns as to persons convicted of crimes.

46. Where any person shall be convicted on indictment of a crime, and a previous conviction of a crime has been or shall be proved against him upon the trial of the said indictment, he shall, at any time within seven years immediately after the expiration of the sentence passed on him for the last of such crimes, be guilty of an offence against this Act, and be liable on summary conviction before a Resident Magistrate, to imprisonment, with or without hard labour, for a term not exceeding one year, under the following circumstances, or any of them—

Offences under Part II after a second conviction of crime.

- (a) if on his being charged by a constable with getting his livelihood by dishonest means, and being brought before the Court, it appears to such Court

that there are reasonable grounds for believing that the person so charged is getting his livelihood by dishonest means; or

- (b) if, on being charged with any offence punishable on indictment or summary conviction, and on being required by a Resident Magistrate or a Justice to give his name and address, he refuses to do so, or gives a false name or a false address; or
- (c) if he is found in any place, whether public or private, under such circumstances as to satisfy the Court before whom he is brought that he was about to commit, or to aid in the commission of, any offence punishable on indictment or summary conviction; or was waiting for an opportunity to commit, or aid in the commission of, any offence punishable on indictment or summary conviction; or
- (d) if he is found in or upon any dwelling-house, shop, warehouse, counting-house, or other place of business, or any building, yard, or premises, being parcel thereof, or attached thereto, or in any garden, orchard, pleasure ground, or nursery ground, or in any building or erection in any garden, orchard, pleasure ground, or nursery ground, without being able to account to the satisfaction of the Court before whom he is brought for his being found on such premises.

Powers of taking such offender into custody.

Any person charged with being guilty of any offence against this Part, mentioned in this section, may be taken into custody as follows, that is to say—

- (i) in the case of any such offence against this Part as is first in this section mentioned, by any constable

without warrant, if such constable is authorized so to do by the Chief Officer of Police of his district;

- (ii) in the case of any such offence against this Part as is thirdly in this section mentioned, by any constable without warrant, although such constable is not specially authorized to take him into custody;
- (iii) also, where any person is charged with being guilty of an offence against this Part fourthly in this section mentioned, he may, without warrant, be apprehended by any constable, or by the owner or occupier of the property on which he is found, or by the servants of the owner or occupier, or by any other person authorized by the owner or occupier, and may be detained until he can be delivered into the custody of a constable.

47. Where any person shall be convicted on indictment of a crime, and a previous conviction of a crime shall be proved against him, the Court having cognizance of such indictment may, in addition to any other punishment which it may award to him, direct that he is to be subject to the supervision of the Police for a period of seven years, or such less period as the Court may direct, commencing immediately after the expiration of the sentence passed on him for the last of such crimes.

Power of Court to place offenders under supervision of the Police.

Every male person subject to the supervision of the Police, under this Part, who is at large, shall notify the place of his residence to the Chief Officer of Police of the parish in which such residence is situated, and shall, whenever he changes such residence within the same parish, notify such change to the Chief Officer of Police of that parish; and, whenever he changes his residence from one parish to another, shall notify such change of residence to the Chief Officer of Police of the parish which he is leaving, and to the Chief Officer of Police of the parish into which he goes to reside; more-

over every person subject to the supervision of the Police shall once in each month report himself, at such time as may be prescribed by the Chief Officer of Police of the parish in which such person may be, either to such Chief Officer himself, or to such other person as that officer may direct, and such report shall be made personally or by letter, as such Chief Officer directs.

If any person, subject to the supervision of the Police under this Part, remains in any place for forty-eight hours without notifying the place of his residence to the Chief Officer of Police of the district in which such place is situated, or fails to comply with the requisitions of this section on the occasion of any change of residence, or with the requisitions of this section as to the reporting himself once in each month, he shall, in every such case, unless he proves, to the satisfaction of the Court before whom he is tried, that he did his best to act in conformity with this Part, be guilty of an offence against this Part, and upon conviction thereof in a summary manner before a Resident Magistrate's Court, he shall be subject to be imprisoned, with or without hard labour, for a period not exceeding one year.

Proceedings  
on indictment  
for  
committing  
a crime  
after pre-  
vious con-  
viction.

**48.** The proceedings upon any indictment for committing a crime, as defined by this Part, after previous conviction for a crime shall be as follows, that is to say, the defendant shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he plead not guilty, or if the Court order a plea of not guilty to be entered on his behalf, the jury shall be charged in the first instance to inquire concerning such subsequent offence only; and if they find him guilty, or if, on arraignment he plead guilty, he shall then and not before, be asked whether he had been previously convicted as alleged in the indictment; and if he answer that he had been so previously convicted the Court may proceed to sentence him accordingly; but if he deny that he had been so previously

convicted, or stand mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction; and in such case, it shall not be necessary to swear the jury again, but the oath already taken by them shall, for all purposes, be deemed to extend to such last-mentioned inquiry :

Provided that if upon the trial of any person for any such subsequent offence, such person shall give evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such person for the previous offence before such verdict of guilty shall be returned; and the jury shall inquire concerning such previous conviction at the same time that they inquire concerning such subsequent offence.

49. The description of any offence against this Part in the words of this Part shall be sufficient in law, and any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Part, may be proved by the defendant, but need not be specified or negated in the information or complaint, and, if so specified or negated, no proof in relation to the matters so specified or negated shall be required on the part of the informant, or prosecutor, or complainant.

As to the description of the offence, and as to evidence, in proceedings under this Part.

50. Any person accused of an offence against this Part may be remanded from time to time, by the Court before whom he is brought, for the purpose of enabling evidence to be obtained against him, or for any other just cause.

Power of remand.

51. Every person who occupies or keeps any lodging-house, retail spirit-house, tavern, or other place where spirituous or other liquors or spirituous compounds are sold, or place of public entertainment, or public resort, and knowingly lodges or harbours thieves or reputed thieves

Penalty for harbouring thieves.

knowingly permits or suffers thieves or reputed thieves to meet or assemble therein, or allows the deposit of goods therein, having reasonable cause for believing them to be stolen, shall be liable on summary conviction, to a penalty not exceeding twenty dollars; and the Resident Magistrate before whom he is brought may, if he think fit, in addition to or in lieu of any penalty, require him to enter into recognizance, with or without sureties for keeping the peace, or being of good behaviour during twelve months:

Provided first, that no person shall, for not producing such sureties, be imprisoned for a longer period than three months;

and secondly, that the security required from a surety shall not exceed forty dollars.

And any licence for the sale of any spirits or spirituous liquors, or spirituous compounds, or for keeping a tavern, or any place of public entertainment, or public resort, which has been granted to the occupier or keeper of any such house or place as aforesaid, shall be forfeited on the first conviction of such occupier, or keeper, of an offence under this section; and on his second conviction for such an offence he shall be disqualified for a period of two years from receiving any such licence; moreover, where two convictions under this section have taken place within a period of two years, in respect of the same premises, whether the persons convicted were or were not the same, the Resident Magistrate may, if he so think fit, direct that for a term not exceeding one year from the date of the last of such convictions, no such licence as aforesaid shall be granted to any person whatever in respect of such premises; and any licence granted in contravention of this section shall be void.

#### *Assaults on Police*

Assaults on  
police.

**52.** When any person is convicted of an assault and battery on any officer of any Court of Justice, while such

officer is executing the process of the Court, or on any Justice or Constable when in the execution of his duty, such person shall, on summary conviction before a Resident Magistrate, be liable either to pay a penalty not exceeding forty dollars, and in default of payment to be imprisoned for a term not exceeding one year, or, in the discretion of the Resident Magistrate, to be imprisoned for a term not exceeding one year, with or without hard labour.

**53. In this Part—**

“Chief Officer of Police” shall mean the Commissioner of Police, or any other officer, or Inspector, of the Jamaica Constabulary Force; and

“crime” shall mean—

- any felony, not punishable with death;
- the offence of unlawfully uttering or possessing false or counterfeit coins;
- the offence of obtaining goods or money by false pretences;
- the offence of conspiracy to defraud;
- any misdemeanour under section 42 of the Larceny Act.

Definition of terms under Part II.

*Detention of Habitual Criminals*

**54.—(1)** Where a person is convicted on indictment preferred in the Supreme Court and such person admits that he is, or is found by the Court to be, a habitual criminal within the meaning of this section, the Court, if of the opinion that such person is leading persistently a dishonest or criminal life and that it is expedient that he should be kept in detention for a lengthened period of years, may pass a sentence ordering that he be detained during the Governor-General’s pleasure, and such detention is hereinafter referred to as “preventive detention”; and a person on whom such

Preventive detention.

a sentence is passed shall while undergoing the sentence of preventive detention be deemed for all purposes to be a person convicted of a felony.

Who is to be deemed a habitual criminal.

(2) A person shall be deemed to be a habitual criminal who has at least four times previously to the conviction on the said indictment been convicted on indictment of a crime, whether any such previous conviction was in the Supreme Court or in a Resident Magistrate's Court.

Procedure.

(3) In the proceedings on the indictment the offender shall in the first instance be arraigned on so much only of the indictment as charges the crime, and if on arraignment he pleads guilty or is found guilty by the jury, the Judge shall unless he pleads guilty to being a habitual criminal, inquire whether he is a habitual criminal and whether he is leading persistently a dishonest or criminal life :

Provided that a charge of being a habitual criminal shall not be inserted in an indictment—

(a) without the consent of the Director of Public Prosecutions; and

(b) unless not less than three days' notice has been given to the offender that it is intended to insert such charge;

and the notice to the offender shall specify the previous convictions upon which it is intended to found the charge.

(4) Without prejudice to any right of the accused to tender evidence as to his character and repute, evidence of character and repute may, if the Court thinks fit, be admitted as evidence on the question whether the accused is or is not leading persistently a dishonest or criminal life.

(5) No sentence of preventive detention shall be passed upon any person until on or after such date as the Minister by order published in the *Gazette* may appoint.

PART IIA. *Supervision of Restricted Persons*2/1994  
S. 2.

## 54A. In this Part—

Definition  
of terms  
under  
Part IIA.

“central register” means the register kept pursuant to section 54D;

“Chief Officer of Police” has the same meaning as in Part II;

“Commissioner” means the Commissioner of Police;

“deportation order” means an order (however described) made by an authority of a foreign state which requires the person subject to the order to leave and remain out of that state, and “deportation” shall be construed accordingly;

“firearm” has the same meaning as in the Firearms Act;

“parish register” means a register kept pursuant to section 54E;

“registration officer” means a person designated as such under section 54D;

“restricted person” means a person in respect of whom an order is made by the Minister pursuant to section 54B (1);

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[The inclusion of this page is authorized by L.N. 79/1996]

Second  
Schedule.

“specified offence” means an offence constituted by an act or omission which if it took place in Jamaica (or in the case of an extra-territorial offence, in corresponding circumstances outside Jamaica) would constitute an offence specified in the Second Schedule would be punishable under the law of Jamaica with imprisonment for a term of two years or any greater punishment;

“Tribunal” means the Restricted Persons Review Tribunal established under section 54F.

Designation  
of restricted  
persons.

**54B.**—(1) Subject to subsection (2), the Minister may, by order, upon application by the Commissioner and upon being satisfied that it is necessary so to do in the interest of public safety or public order, designate as a restricted person any Jamaican citizen—

- (a) who has been convicted of a specified offence in a foreign state;
- (b) who is the subject of a deportation order made in the foreign state or who has elected to return to Jamaica from that state in lieu of deportation; and
- (c) whose conduct and activities have been of such a nature that he may be reasonably regarded as constituting a threat to the public safety or public order of Jamaica.

(2) The Commissioner shall—

- (a) before making an application under subsection (1), notify a Judge of the Supreme Court *ex parte* of his intention to make the application and the reasons therefor;

- (b) attach to the application a certificate issued by the Judge pursuant to subsection (3).

(3) The Judge shall consider the matter and if the Judge is satisfied that in the circumstances the making of such application would be appropriate, he shall issue a certificate to that effect.

(4) An order under subsection (1) may impose on a restricted person such restrictions as to residence, reporting to the police, registration, the use or possession of firearms or other weapons, or otherwise as the Minister may deem to be necessary in the interest of public order and public safety.

(5) The restrictions referred to in subsection (4) shall be in force for such period not exceeding twelve months as the order may specify.

**54C.**—(1) Every restricted person, shall during the period specified in an order under section 54B be under the supervision of the police and shall be subject to the requirements of subsections (2) and (3).

Restrictions  
on restricted  
persons.

(2) The requirements referred to in subsection (1) are that the restricted person shall—

- (a) notify his place of residence, and such other particulars as may be prescribed, to the registration officer of the parish in which he resides;

- (b) once in each week or at such time as the registration officer of the parish in which he resides may require, report in person to such officer;
- (c) if at any time he is absent or likely to be absent from his residence for a period exceeding seven days supply to the registration officer of the parish in which he resides his current address and every subsequent change of address including his return to his residence;
- (d) forthwith supply to the registration officer of the parish in which he resides, particulars of any circumstances affecting or likely to affect in any manner the accuracy of the particulars previously supplied by him pursuant to any of the preceding paragraphs;
- (e) upon reporting to the registration officer pursuant to paragraph (b), produce to the registration officer, the registration certificate furnished to him under section 54E.

Register.

**54D.**—(1) For the purposes of this Act, there shall be a central register of restricted persons which shall be kept under the management of the Commissioner or such other person as the Commissioner may designate.

(2) The central register shall be in such form and contain such particulars as may be prescribed.

(3) The Commissioner or such other officer of the Jamaica Constabulary Force as he may designate, shall be the registration officer for the parishes of Kingston, St. Andrew and St. Catherine and the Chief Officer of Police of each other parish shall be the registration officer for that parish.

(4) The central register shall not be open to inspection by any person except pursuant to the order of a court consequent upon an application by that person.

**54E.** Each registration officer shall—

- (a) keep for his parish a register of the restricted persons resident therein which shall be in the form and contain such particulars as may be prescribed;
- (b) supply to the person responsible for keeping the central register returns from his parish register containing such particulars, at such times and in such manner as may be prescribed;
- (c) supply registration certificates to restricted persons in accordance with the provisions of this Act.

Duties of registration officer.

**54F.—(1)** There is hereby established for the purposes of this Act, a body to be known as the Restricted Persons Review Tribunal which shall not be subject to the direction or control of any other person or authority.

Establishment of Restricted Persons Review Tribunal.

(2) The provisions of the Third Schedule shall have effect with respect to the constitution of the Tribunal and otherwise in relation thereto.

Third Schedule.

Functions  
of the  
Tribunal.

**54G.—(1)** The functions of the Tribunal shall be—

- (a) to receive and consider the application of any restricted person for a review of the restrictions placed on that person;
- (b) to make recommendations to the Minister concerning the necessity or expediency of continuing the restrictions.

(2) In performing its functions the Tribunal may carry out such investigations and conduct such enquiry as it may consider necessary or desirable in connection with matters falling within the provisions of this Part, and in respect of any such enquiry shall have the powers of Commissioners appointed under the Commissions of Enquiry Act.

Application  
for review.

**54H.—(1)** Any restricted person may apply in writing to the Tribunal for a review of the restrictions placed upon him.

(2) In considering an application made under subsection (1), the Tribunal shall—

- (a) consult with the registration officer for the parish in which the applicant resides;
- (b) have regard to all material considerations, including the facts and representations on which the applicant relies in support of his application, the

behaviour of the applicant since the restrictions were imposed and the results of any investigations made by the Tribunal pertaining to the application.

**54I.** The Tribunal after considering an application shall forthwith prepare and submit to the Minister a report of its deliberations, together with its recommendations and a copy thereof shall be sent to the Commissioner. Recommendation of Tribunal.

**54J.—(1)** The Minister after consideration of the report and recommendation of the Tribunal pursuant to section 54I may make an order— Decision of Minister.

- (a) that the restrictions placed on the restricted person be discontinued;
- (b) for the variation of the restrictions imposed on the restricted person; or
- (c) that the restrictions be continued,

and shall cause the applicant to be informed in writing of the Minister's decision and the reasons therefor.

(2) The Commissioner shall be notified in writing of any order made by the Minister under subsection (1).

(3) Where the Minister orders the discontinuance of restrictions, the Commissioner shall direct that the central register and the appropriate parish register be appropriately altered to reflect the Minister's order.

Reapplication for review.

**54K.** Where the Minister orders the continuance of any restrictions or varies such restrictions in respect of any restricted person, that person may reapply for a review of his case after the expiration of six months from his last application.

Offences.

**54L.—(1)** Any restricted person who contravenes the provisions of an order under section 54B (1) or any provision of section 54C (2) is, subject to subsection (2), guilty of an offence and liable on summary conviction before a Resident Magistrate to imprisonment for a term not exceeding twelve months.

(2) It shall be a defence to a charge for an offence against subsection (1) if the person charged proves that he did his best to act in conformity with the provisions of the order under section 54B (1) or of section 54C (2) as the case may be.

(3) Every person who—

- (a) supplies to any registration officer acting pursuant to this Part, information or documents, which that person knows to be false;
  - (b) alters or tampers with a registration certificate;
  - (c) destroys or damages a registration certificate,
- is guilty of an offence and liable on summary conviction before a Resident Magistrate to imprisonment for a term not exceeding twelve months.

Regulations.

**54M.** The Minister may make regulations prescribing anything required by this Part to be prescribed and for the better carrying out of the provisions of this Part.

PART III. *As to Reserving Questions of Law for Consideration of the Court of Appeal*

55. When any person shall have been convicted of any treason, felony, or misdemeanour before any Circuit or Resident Magistrate's Court, the Judge or Resident Magistrate before whom the case shall have been tried, may, in his discretion, reserve any questions of law which shall have arisen on the trial for the consideration of the Court of Appeal, and thereupon shall have authority to respite execution of the judgment on such conviction, or postpone the judgment until such questions shall have been considered and decided as he may think fit; and in either case the Judge or Resident Magistrate in his discretion, shall commit the person convicted to prison or shall, in accordance with the Bail Act, grant bail to the person with one or more sufficient sureties.

Questions of law may be reserved for consideration of the Court of Appeal.

19/2000  
S.23.

56. The Judge or Resident Magistrate shall thereupon state, in a case signed by him, the questions of law which shall have been so reserved, with the special circumstances upon which the same shall have arisen, and such case shall be transmitted to the Court of Appeal; and the Court of Appeal shall thereupon have full power and authority to hear and finally determine such questions, and thereupon to reverse, affirm, or amend any judgment which shall have been given on the indictment on the trial whereof such questions have arisen, or to avoid such judgment and to order an entry to be made on the record that in the judgment of the Court the party convicted ought not to have been convicted, or to arrest the judgment, or order judgment to be given thereon at some other session of the Circuit or Resident Magistrate's Court, if no judgment shall have been before that time given, or to make such other order as justice may require.

Judge or Resident Magistrate to state case with the questions of law reserved for Court of Appeal.

Registrar of  
the Court of  
Appeal to  
certify  
judgment and  
order of  
Court of  
Appeal.  
15/1962  
S. 35.

Schedule.

57. Every judgment and order of the Court of Appeal, under the last preceding section, shall be certified by the Registrar of the Court of Appeal under the seal of the Court, to the Clerk of the Circuit Court, or of the Resident Magistrate's Court, as the case may be, who shall enter the same on the original record in proper form; and a certificate of such entry, under the hand of the Clerk of the Circuit or Resident Magistrate's Court, as the case may be, in the form of, or as near as may be, or to the effect mentioned in Form B of the Schedule, with the necessary alterations to adapt it to the circumstances of the case, shall be delivered or transmitted by him to the gaoler or officer in whose custody the person convicted shall be; and such certificate shall be a sufficient warrant to such gaoler or officer and all other persons for the execution of the judgment as the same shall be so certified to have been affirmed or amended, and execution shall be thereupon executed upon such judgment, and for the discharge of the person convicted from further imprisonment, if the judgment shall be reversed, avoided, or arrested, and in that case such gaoler or officer shall forthwith discharge him, and the recognizance of bail, if any, shall be vacated at the next session thereafter of the Circuit or Resident Magistrate's Court, and if the said Circuit or Resident Magistrate's Court shall be directed to give judgment, the said Court shall proceed to give judgment at the next session.

Judgments  
of the Court  
of Appeal to  
be delivered  
in open  
court.

58. The judgments of the Judges of the Court of Appeal upon any case reserved for their opinion under this Act, shall be delivered in open court, after hearing counsel, or the parties, in case the Crown or the person convicted shall think it fit that the case shall be argued, in like manner as the judgments of the Court of Appeal are now delivered.

59. The Court of Appeal, when a case has been reserved for its opinion under this Act shall have power, if it thinks fit, to cause the case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended.

Court of Appeal may send back case for amendment.

60. It shall be lawful for the Court of Appeal if it shall think fit, to order a new trial of any case which shall be brought before it under this Act, and the Court of Appeal may give all such directions, and make such orders as may be necessary for a new trial, and for the detention or release upon bail of the accused.

Court of Appeal may order a new trial, etc.

61. The Court of Appeal may, if it shall think fit, amend all defects and errors in any indictment or proceeding brought before it under this Act, whether such amendment could or could not have been made at the trial, and all such amendments as may be necessary for the purpose of determining the real question in controversy shall be so made.

Court of Appeal may amend defects and errors in any judgment, etc.

*Effect of Endurance of Punishment in Felonies*

62. Where any person hath been, or shall be, convicted of any felony not punishable with death, and hath endured or shall endure the punishment to which such offender hath been or shall be adjudged for the same, the punishment so endured hath and shall have the like effects and consequences as a pardon from the Governor-General under the Seal of this Island as to the felony whereof the offender was so convicted:

Effect of punishment in felonies not capital to have effect of pardon.

Provided, that nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment, to which the offender might otherwise be lawfully sentenced on any subsequent conviction for any other felony.

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[The inclusion of this page is authorized by L.N. 90/1993]

18/1991  
S. 2.

PART IV. *Matters concerning writ of habeas corpus and order of certiorari*

Procedure  
on appli-  
cation for  
*habeas*  
*corpus*.

**63.**—(1) An application for a writ of *habeas corpus* shall state all the grounds upon which it is based.

(2) Where an application for a writ of *habeas corpus* in a criminal cause or matter has been made by or in respect of any person, no such application may again be made in that cause or matter by or in respect of that person whether to the same court or to any other court, unless fresh evidence is adduced in support of the application.

(3) In this section “writ of *habeas corpus*” means a writ of *habeas corpus ad subjiciendum*.

Power of  
Supreme  
Court to  
vary sen-  
tence on  
*certiorari*  
applica-  
tion.

**64.**—(1) Where a person who has been sentenced for an offence by a Resident Magistrate’s Court applies to the Supreme Court for an order of *certiorari* to remove the proceedings of the Resident Magistrate’s Court into the Supreme Court and the Supreme Court determines that the Resident Magistrate’s Court had no power to pass the sentence, the Supreme Court may, instead of quashing the conviction, amend it by substituting for the sentence passed, any sentence which the Resident Magistrate’s Court had power to impose.

(2) Any sentence passed by the Supreme Court by virtue of this section shall, unless the Supreme Court otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings in the Resident Magistrate’s Court.

FIRST SCHEDULE

2/1994  
S. 3.  
(Section  
4 (1))

FORM A

To Superintendent (or other head officer)  
of the Prison.

Whereas, I, \_\_\_\_\_, Resident Magistrate,  
of \_\_\_\_\_ (or \_\_\_\_\_ Justice of the  
Peace for \_\_\_\_\_) or we

(Justices of the Peace for \_\_\_\_\_, as the case may be)  
have been informed by the Director of Public Prosecutions, or the  
Deputy Director of Public Prosecutions (as the case may be), in open  
Court (or in writing) that the Director of Public Prosecutions has  
entered a *nolle prosequi* in the proceedings against

\_\_\_\_\_, now in your custody under a  
committal by me (or us) for trial at \_\_\_\_\_, I direct  
you to release the said \_\_\_\_\_ forthwith from  
custody.

(Signed)  
Resident Magistrate,  
(or as the case may be)

FORM B

(Section 57)

Whereas at the Circuit Court for \_\_\_\_\_ (or Resident  
Magistrate's Court for \_\_\_\_\_) held on the  
day of \_\_\_\_\_ 19 \_\_\_\_\_, at \_\_\_\_\_ A.B., having  
been found guilty of treason, felony or misdemeanour (or, as the case  
may be), and judgment thereupon given, that (state the substance),  
the Court before whom he was tried reserved a certain question of law  
for the consideration of the Court of Appeal, and execution was there-  
upon respited in the meantime.

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_  
it was considered by the Court of Appeal that the judgment aforesaid  
should be annulled, and an entry made on the record that the said  
A.B. ought not, in the judgment of the Court of Appeal, to have been  
convicted of the treason, felony or misdemeanour aforesaid, and you  
are therefore hereby required forthwith to discharge the said A.B.  
from your custody.

To the Superintendent of \_\_\_\_\_, and all others  
whom it may concern.

(Signed)  
\_\_\_\_\_  
E.F.,  
Clerk of the Circuit Court for \_\_\_\_\_  
(or Clerk of the Resident Magistrate's  
Court for \_\_\_\_\_ as the  
case may be).

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[The inclusion of this page is authorized by L.N. 79/1996]

2/1994  
S. 3.

## SECOND SCHEDULE (Section 54A)

*Categories of Offences*

1. Felonies or indictable misdemeanours involving injury to the person or substantial injury to property.
2. Offences against the Dangerous Drugs Act.
3. Offences involving the use or possession of a firearm.

2/1994  
S. 3.

## THIRD SCHEDULE (Section 54F)

*Constitution and Procedure of Restricted Persons Review Tribunal*Constitu-  
tion of  
Tribunal.

1. The Tribunal shall consist of a chairman and four other members.

Appoint-  
ments.

2.—(1) The chairman shall be appointed by the Chief Justice of Jamaica from among persons entitled to practice or admitted to practice in Jamaica as attorneys-at-law.

(2) The other members shall be appointed by the Governor-General acting in his discretion.

Tenure of  
office.

3.—(1) The appointment of each member shall be evidenced by instrument in writing and shall, subject to the provisions of this Schedule, be for a period not exceeding three years.

(2) Each member shall be eligible for reappointment.

Acting  
appoint-  
ments.

4.—(1) If the chairman is by reason of illness, absence or other sufficient cause unable to perform his functions under this Act, the Chief Justice may, by instrument in writing, appoint a person qualified under paragraph 2 (1) to act as chairman.

(2) If any other member is by reason of illness, absence or other sufficient cause unable to perform his functions under this Act, the Minister may, by instrument in writing, appoint any person to act temporarily in the place of such member.

Resigna-  
tions.

5.—(1) Any member, other than the chairman, may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the chairman, and such resignation

shall take effect from the date of receipt by the Governor-General of such instrument.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Chief Justice and such resignation shall take effect from the date of receipt by the Chief Justice of such instrument.

6.—(1) The Chief Justice may at any time revoke the appointment of the chairman if he thinks it expedient so to do. Revocation of appointments.

(2) The Governor-General may at any time revoke the appointment of any other member if he thinks it expedient so to do.

7. The names of all members of the Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.

8.—(1) Subject to the provisions of sub-paragraph (2) and of the Act the Tribunal shall regulate its own proceedings and may meet at such places as the chairman may from time to time determine. Procedure.

(2) The decisions of the Tribunal shall be by a majority of votes of the members, and in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal.

9. There shall be paid to the chairman and other members such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine. Remuneration of members.

10. No action, suit, prosecution or other proceeding shall be brought or instituted personally against any member in respect of any act done *bona fide* in pursuance or execution of the functions of the Tribunal. Protection of members.

11. The office of chairman or member of the Tribunal is not a public office for the purposes of Chapter V of the Constitution of Jamaica. Office of member not a public office.

1/2006.  
S.5.

FOURTH SCHEDULE (Sections 25A, 25D and 25E)

Form A (Section 25A)

*Form of words for putting the issue  
of fitness to a jury*

“Members of the Jury, the defendant A.B. is charged as follows:

The defendant A.B. is indicted for the offence of \_\_\_\_\_  
for that he on the \_\_\_\_ day of \_\_\_\_\_ and it is alleged that he  
is not fit to stand trial upon this indictment. It is your charge therefore  
to say, having heard the evidence, whether or not he is fit to stand  
trial.”

Form B (Section 25A)

*Oath of jurors charged to try the issue of fitness*

“I swear by almighty God that I will faithfully try whether the defendant  
at the bar is fit to stand trial, and give a true verdict according to the  
evidence.”

Form C (Section 25D)

*Report on condition of defendant found unfit to stand trial*

This Form is to be filled out by the Registrar or Court Administrator in  
respect of each defendant who is not fit to stand trial.

Parish:

Name of Court:

Judge/Resident Magistrate:

1. Surname of accused:

\_\_\_\_\_

2. Christian name:

\_\_\_\_\_

3. Alias:

\_\_\_\_\_

4. Information Number:

\_\_\_\_\_

5. Offence for which accused  
is charged:

\_\_\_\_\_

6. Name and badge number  
of arresting officer:

\_\_\_\_\_

7. Date of first appearance:

\_\_\_\_\_

8. Next of kin:

\_\_\_\_\_

9. Address of next of kin:

\_\_\_\_\_

10. Court's ruling:

\_\_\_\_\_

Form C, *contd.*

(Section 25D)

11. Place of remand/admission/residence: 12. Date of next appearance:

13. Reports received:

(include date and summary or report, and any other relevant information).

Form D

(Section 25E)

*Report on condition of Defendant  
in case of Special Verdict*

Parish:

Institution/Hospital/Medical Facility:

1. Surname of accused:

2. Christian name:

3. Alias:

4. Information Number:

5. Offence for which accused is charged:

6. Name of Court:

7. Date of first admission:

8. Next of kin:

9. Address of next of kin:

10. Medical practitioner's assessment:

11. Medical practitioner's directions:

12. Name of Medical practitioner:

13. Signature:

1/2006.  
S.5.

## FIFTH SCHEDULE

(Section 25C)

*Admission Orders*

1.—(1) An order under section 25C (2) (b) (hereinafter in this Act called an admission order) shall be sufficient authority for a constable or other person named in the order to take the defendant to whom the order relates and convey that defendant to the psychiatric facility specified in the order.

(2) The court making an admission order may include in the order such directions as it thinks fit for the conveyance of the defendant to whom the order relates, including directions for the defendant's detention in such place as the court thinks fit pending his admission to the psychiatric facility specified in the order.

(3) Where a defendant is admitted to a psychiatric facility pursuant to an admission order, the admission order shall be sufficient authority for the managers of the facility to detain the defendant there in accordance with the provisions of the order.

(4) While a defendant is detained in pursuance of an admission order—

- (a) the Director of Public Prosecutions, if he is satisfied that the defendant can properly be tried; or
- (b) the defendant,

may apply to the Court that made the order for the defendant to be remitted for trial to—

- (i) the court of trial; or
- (ii) a remand centre or correctional facility.

(5) Upon the remission of a defendant under sub-paragraph (4), the admission order shall cease to have effect.

(6) In this Schedule “managers” has the meaning assigned to it by section 2 of the Mental Health Act.

1/2006.  
S.5.

## SIXTH SCHEDULE

(Sections 25C and 25E)

*Supervision and Treatment Orders*

1. In this Schedule—

“a guardianship order” means an order under section 25C (2) (d) or 25E (3) (c);

SIXTH SCHEDULE, *contd.*

“a supervision and treatment order” means an order under section 25C (2) (c) or 25E (3) (b) requiring the supervised person to—

- (a) be under the supervision of a supervising officer; and
- (b) submit to treatment by or under the direction of an approved medical practitioner with a view to the improvement of the supervised person’s condition;

“supervised person” means the person in respect of whom a supervision and treatment order is made;

“supervising officer” means a probation and after care officer appointed under section 68 of the Corrections Act.

2. A court shall not make a supervision and treatment order unless the court is satisfied—

- (a) that having regard to all the circumstances of the case, the making of such an order is the most suitable means of dealing with the person;
- (b) on the written or oral evidence of two or more duly qualified medical practitioners at least one of whom is an approved medical practitioner, that the condition of the defendant—
  - (i) is such as requires, and may be susceptible to, treatment; and
  - (ii) is not such as to warrant the making of an admission order or a guardianship order;
- (c) that the supervising officer intended to be specified in the order is willing to undertake the supervision; and
- (d) that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the defendant where he is to be required to submit to treatment as a resident patient).

3.—(1) Before making a supervision and treatment order, the Court shall explain to the supervised person in ordinary language (to the extent possible given that person’s condition)—

- (a) the effect of the order (including any requirements proposed to be included in the order in accordance with paragraph 5); and
- (b) that a Resident Magistrate’s Court has power under paragraphs 6 to 8 to review the order on the application of the supervised person or the supervising officer.

SIXTH SCHEDULE, *contd.*

- (2) Where a court makes a supervision and treatment order—
- (a) the court shall forthwith give copies of the order to a probation and after-care officer assigned to the court, and that officer shall give a copy of the order to—
- (i) the supervised person;
  - (ii) the supervising officer; and
  - (iii) the person in charge of any institution in which the supervised person is required by the order to reside;
- (b) the court shall send to the Clerk of the Resident Magistrate's Court for the parish in which the supervised person resides or will reside while the order is in force—
- (i) a copy of the order; and
  - (ii) such documents and information relating to the case as it considers likely to be of assistance to the Resident Magistrate's Court in the exercise of its functions under paragraphs 6 to 8;
- (c) the supervised person shall keep in touch with the supervising officer in accordance with such instructions as the supervised person may be from time to time given by the supervising officer, and shall notify that officer of any change of the supervised person's address.

4.—(1) A supervision and treatment order shall include a requirement that the supervised person submit, for such period as is specified in the order, to treatment by or under the direction of an approved medical practitioner with a view to the improvement of the supervised person's condition.

(2) The treatment required by a supervision and treatment order shall be specified in the order, being one of the following kinds of treatment—

- (a) treatment as a resident patient in a psychiatric facility specified in the order;
- (b) treatment as a non-resident patient at a psychiatric facility specified in the order;
- (c) treatment by or under the direction of such approved medical practitioner as may be specified in the order:

Provided that the nature of the treatment shall not be specified in the order except as mentioned in sub-paragraph (a), (b) or (c).

- (3) While the supervised person is under treatment as a resident

SIXTH SCHEDULE, *contd.*

patient pursuant to a supervision and treatment order, the supervising officer shall carry out the supervision only to such extent as may be necessary for the purpose of the revocation or amendment of the order.

(4) Where the approved medical practitioner by whom or under whose direction the supervised person is being treated pursuant to a supervision and treatment order is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which is—

(a) not specified in the order; and

(b) one in or at which the treatment of the supervised person will be given by or under the direction of an approved medical practitioner,

he may, with the consent of the supervised person, make arrangements for the supervised person to be treated accordingly.

(5) The arrangements mentioned in sub-paragraph (4) may provide for the supervised person to receive part of his treatment as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the supervision and treatment order.

(6) Where arrangements are made pursuant to sub-paragraph (4) for the treatment of a supervised person—

(a) the approved medical practitioner by whom the arrangements are made shall give notice in writing to the supervising officer, specifying the institution or place in or at which the treatment is to be carried out; and

(b) the treatment provided for by those arrangements shall be deemed to be treatment to which the supervised person is required to submit in accordance with the supervision and treatment order.

5.—(1) Subject to sub-paragraphs (2) and (3), a supervision and treatment order may include requirements as to the residence of the supervised person.

(2) Before including any requirement referred to in sub-paragraph (1), the Court shall consider the home surroundings of the supervised person.

(3) Where a supervision and treatment order requires the supervised person to reside in a prescribed place or institution, the period for which such person is so required to reside shall be specified in the order.

6.—(1) A Resident Magistrate's Court for the parish in which the supervised person resides may revoke the supervision and treatment order on the application of the supervised person or the supervising officer if it appears

SIXTH SCHEDULE, *contd.*

to the Court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of the health or welfare of the supervised person that the order be revoked.

(2) Upon revoking a supervision and treatment order pursuant to sub-paragraph (1), the Clerk of the Court shall forthwith give three copies of the revocation order to the supervising officer.

(3) Where under sub-paragraph (2) copies of a revocation order are given to a supervising officer, he shall give a copy of the revocation order to the supervised person and to the person in charge of any institution or place in which the supervised person is or was required to reside under the supervision and treatment order.

7.—(1) Subject to sub-paragraph (2), a Resident Magistrate's Court for the parish in which the supervised person is required to reside under a supervision and treatment order may, and on the application of the supervising officer shall, if satisfied that the supervised person proposes to change or has changed, his residence from the place specified in the order to a place falling within the jurisdiction of another Resident Magistrate's Court, amend the order by substituting the other place for the place specified in the order.

(2) The Court shall not amend a supervision and treatment order under this paragraph if, in the opinion of the Court—

- (a) the order contains requirements that cannot be complied with unless the supervised person continues to reside in the place specified in the order; and
- (b) the matter cannot satisfactorily be dealt with by the Court by the cancellation of those requirements and the substitution of other requirements that can be complied with if the supervised person ceases to reside in that place.

8.—(1) Subject to sub-paragraph (2), a Resident Magistrate's Court for the parish in which the supervised person resides may, on the application of the supervised person or the supervising officer, by order amend a supervision and treatment order by—

- (a) cancelling any of the requirements of the order; or
- (b) inserting (either in addition to or in substitution for any such requirement) any other requirements that the Court could include if it had made the order.

(2) The power to amend under sub-paragraph (1) shall not include power to extend any period of treatment specified in the order beyond the end of two years from the date of the original order.

SIXTH SCHEDULE, *contd.*

(3) Where an application is made under paragraph (1), the Court may require notice of the application to be served on the supervised person.

9.—(1) Where the Court makes an order under paragraph 7 or 8 amending a supervision and treatment order, the Clerk of the Court shall forthwith—

- (a) if the order amends the supervision and treatment order otherwise than by substituting a place under the jurisdiction of another Resident Magistrate's Court for the place specified in the order, give three copies of the amending order to the supervising officer;
- (b) if the order amends the supervision and treatment order in the manner specified in sub-paragraph (a)—
  - (i) send to the Clerk of the Resident Magistrate's Court having jurisdiction in the new place concerned, a copy of the amending order and such documents and information relating to the case as the Clerk considers likely to be of assistance to the Court in exercising its functions in relation to the order; and
  - (ii) give three copies of the amending order to the supervising officer.

(2) Where under sub-paragraph (1) copies of an amending order are given to a supervising officer, he shall give a copy to the supervised person and to the person in charge of any institution in which the supervised person is or was required by the amending order to reside.

10.—(1) An approved medical practitioner by whom or under whose direction the supervised person is being treated for his condition pursuant to a supervision and treatment order and who is—

- (a) of any opinion mentioned in sub-paragraph (3); or
- (b) for any reason unwilling to continue to treat or direct the treatment of the supervised person,

shall make a report in writing to that effect to the supervising officer.

(2) Upon receiving a report in accordance with sub-paragraph (1), the supervising officer shall apply to the Resident Magistrate's Court having jurisdiction in the place in which the supervised person resides, for the variation or cancellation of the order, as appropriate having regard to the contents of the report.

(3) The opinion referred to in sub-paragraph (1) is that—

- (a) the treatment of the supervised person should be continued beyond the period specified in the order;

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SIXTH SCHEDULE, *contd.*

- (b) the supervised person needs different treatment, being treatment of a kind to which such person could be required to submit in pursuance of such an order;
- (c) the supervised person is not susceptible to treatment; or
- (d) the supervised person does not require further treatment.

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SEVENTH SCHEDULE (Sections 25C and 25E)

*Orders for Guardianship*

1. An order made under section 25C (2) (a) or 25E (3) (c) (hereinafter referred to as a guardianship order) shall confer on the person named as guardian in the application (hereinafter referred to as the guardian), to the exclusion of any other person, the power to require—

- (a) the person in respect of whom the order is made (hereinafter referred to as the patient) to reside at a place specified by the guardian;
- (b) the patient to attend at places and times so specified, for the purpose of medical treatment, occupation, education or training;
- (c) access to the patient to be given, at any place where the patient is residing, to any approved medical practitioner, probation and aftercare officer or other person so specified.

2.—(1) Subject to the provisions of this Schedule, the Minister may make regulations—

- (a) for regulating the exercise by guardians of their powers under this Act;
- (b) imposing on guardians such duties as the Minister considers necessary or expedient in the interests of patients.

(2) Without prejudice to the generality of sub-paragraph (1), regulations made under this paragraph may, in particular, make provision requiring patients to be visited by an approved medical practitioner, on such occasions or at such intervals as may be therein prescribed.

3. A court shall not make a guardianship order unless the court is satisfied—

- (a) that, having regard to all the circumstances of the case, the making of such an order is the most suitable means of dealing with the defendant;

SEVENTH SCHEDULE, *contd.*

(b) on the written or oral evidence of two or more duly qualified medical practitioners, at least one of whom shall be an approved medical practitioner, that—

(i) the defendant is suffering from a mental disorder being mental illness, severe mental impairment, psychopathic disorder or mental impairment, of a nature or degree which warrants his reception into guardianship under this Act; and

(ii) it is necessary in the interests of the welfare of the patient or for the protection of other persons that the defendant should be so received;

(c) that the person intended to be specified as guardian in the order is willing to undertake the guardianship.

4. A guardianship order may be made by the Court of its own motion or on the application of—

(a) the defendant;

(b) the Director of Public Prosecutions; or

(c) a near relative of the defendant.