

*Criminal Procedure Rules*

SAINT LUCIA

STATUTORY INSTRUMENT, No. 22

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[ 11th March, 2015 ]

In exercise of the power conferred under section 570A of the Criminal Code, Cap.3.01, the Chief Justice makes these Rules:

**Preliminary****Citation and commencement**

**0.1—**(1) These Rules may be cited as the Criminal Procedure Rules, 2015.

(2) These Rules shall come into force on the 15<sup>th</sup> day of March, 2015.

**Interpretation**

**0.2 —** (1) In these Rules, unless the context otherwise requires -  
“bail” includes -

- (a) bail which is granted, in or in connection with proceedings for an offence, to a person who is accused or convicted of the offence;
- (b) bail which is granted, in connection with an offence, to a person who is under arrest for an offence or for whose arrest for the offence a warrant endorsed for bail is issued; or
- (c) bail which is granted under any enactment for the time being in force;

“clerk” includes any person -

- (a) employed for any purpose as a clerk;
- (b) employed as a collector of money, including temporarily or part-time;
- (c) employed as a commission agent for the collection or disbursement of money or in any similar capacity;

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- “company” means a body corporate incorporated under the Companies Act, Cap.13.01 and includes any partnership or association, whether corporate or unincorporated;
- “complainant” includes any informant or prosecutor;
- “complaint” includes any information or charge;
- “conviction” includes an order, a minute or memorandum thereof;
- “corporation” includes a corporation sole;
- “Court” except where specifically stated, means the High Court of the Eastern Caribbean Supreme Court or a District Court as the case may be, in the exercise of its criminal jurisdiction, and includes the judge, master or magistrate;
- “crime” includes any offence;
- “Criminal Division” means the Criminal Division of the Supreme Court established under the Supreme Court (Saint Lucia) (Criminal Division) Rules, 2008;
- “Criminal Division Manager” means the proper officer in charge of the Criminal Division;
- “defendant” means the person against whom a complaint is made;
- “deliver” includes causing a person to receive a thing or permitting a person to take a thing, whether directly or indirectly;
- “Director of Correctional Services” means the person for the time being appointed as such under section 6 of the Correctional Services Act, Cap.14.02;
- “document” includes any document in writing whether of a formal or informal character, any disc, tape, sound track or other device on or in which information is recorded or stored mechanically or by electronic means or other means;
- “electronic means” includes any form of electronic communication of the contents of a document, such as, email, online shared drives, CD ROMs, memory sticks or fax;
- “fine” includes any pecuniary penalty, forfeiture or compensation payable under an order;

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- “guardian” in relation to a child, includes the person who for the time being has charge of, or has control over, such child;
- “indictable offence” means any offence punishable on indictment under the Criminal Code, Cap.3.01 or any other enactment;
- “judge” means a judge of the High Court of the Eastern Caribbean Supreme Court;
- “judicial proceeding” includes any civil or criminal trial, and any inquiry or investigation held by a judicial officer in pursuance of any duty or authority;
- “juror” includes an alternate juror;
- “land” includes any immovable property;
- “law year” means the period from the 16<sup>th</sup> day of September to the 31<sup>st</sup> day of July of the following year;
- “master” means a master of the Eastern Caribbean Supreme Court;
- “offence” is an act, attempt or omission punishable by law;
- “officer” in relation to a company or corporation includes any officer, chairman, director, trustee, manager, secretary, treasurer, clerk, auditor, accountant or any other person performing any function in respect of the company;
- “order” includes any conviction;
- “party” includes both parties to the proceedings and any legal practitioner on record for that party unless any rule specifies or it is clear from the context that it relates to the client or to the legal practitioner only;
- “person” whether expressed or implied as in the words “any person who” or otherwise, includes a body of persons whether corporate or unincorporated; and for the purposes of any provision of the Criminal Code, Cap.3.01 relating to defrauding a person or to committing any offence against the property of the person, the Government of Saint Lucia, or of any other country or State;
- “proper officer” includes the Registrar of the High Court, Clerk of the District Court, Sheriff or other officer or person appointed or authorized to perform any particular act or duty;

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“property” includes money and all other property, immovable or movable including chose in action or other intangible property;

“public officer” or “public official” includes a person employed in the public service;

“public service” means service in a civil capacity of the Government of Saint Lucia;

“send” includes causing or attempting in any manner to cause a thing to be received by a person;

“sentence” includes an Order;

“special defence” means the defence of alibi, automatism or insanity;

“sum adjudged to be paid by Order” includes any compensation or costs adjudged to be paid by the Order, the amount of which is fixed by the Order;

“summary offence” means any offence punishable on summary conviction under the Criminal Code, Cap.3.01 or under any other enactment;

“trust” includes the acquiring, holding, receiving, or having control over, or being in any manner entrusted with, any property for or belonging to another person, including property which belonged to a deceased person at the time of his or her death;

“trustee” means -

- (a) a trustee of an express trust created by any legal deed, will, instrument in writing, parol or otherwise, and includes the heir or personal representative of a trustee, and any other person upon whom the duty of such trust devolves, whether by appointment of a Court or otherwise;
- (b) an executor or administrator;
- (c) an official manager, assignee, liquidator or other officer acting under any enactment relating to joint stock companies, bankruptcy or insolvency;



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- (d) a person who acquires, holds, receives, or has control over, or is in any manner entrusted with, any property for or belonging to another person, including property which belonged to a deceased person at the time of his or her death;

“vehicle” includes any car, carriage, cart, wagon, wain, truck, barrow, tricycle, bicycle or other means of conveyance, irrespective of how drawn or propelled;

“writing” includes typing, printing, lithography, photography or other mode of representing or reproducing words or symbols in a visible form; and

“young person” means a person who is of or above the age of twelve years and under the age of sixteen years.

**Part 1**

**Overriding Objective**

**Overriding objective**

**1.1** — (1) The overriding objective of these Rules is to enable the Court to deal with criminal cases justly.

(2) Dealing with a criminal case justly includes -

- (a) dealing with a case efficiently and expeditiously;
- (b) dealing with a prosecution and a defence fairly;
- (c) respecting the interests of witnesses, victims and jurors;
- (d) ensuring that appropriate information is available to the Court when bail and sentence are considered; and
- (e) dealing with a case in a way that takes into account-
  - (i) the gravity of the offence alleged;
  - (ii) the complexity of the issues;
  - (iii) the severity of the consequences for the defendant and others affected; and
  - (iv) the needs of other cases.

(3) The overriding objective of these Rules, particularly the timely and efficient disposal of cases in the Criminal Division, cannot be

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achieved by the Court readily granting adjournments without the party requesting the adjournment showing cause.

**The duty of the parties**

**1.2—(1)** Each party must -

- (a) prepare and conduct the case in accordance with the overriding objective;
- (b) comply with these Rules, practice directions and directions made by the Court;
- (c) immediately inform the Court and all other parties of any failure to -
  - (i) take any procedural step required by these Rules;
  - (ii) follow any practice direction or any direction of the Court;
- (d) promptly inform the Court and the other party or parties of anything that may affect the date of trial or the progress of the case in any way;
- (e) take every reasonable step to make sure his or her witnesses will attend Court when they are needed;
- (f) monitor compliance with directions;
- (g) ensure that the Court is kept informed of events that may affect the progress of a case;
- (h) ensure that he or she can be contacted promptly about a case during ordinary business hours;
- (i) act promptly and reasonably in response to communications about a case; and
- (j) if his or her legal practitioner on record will be unavailable for a scheduled hearing, appoint a substitute legal practitioner for that purpose and inform the other party or parties.

**The application of the overriding objective by the Court**

**1.3** The Court must further the overriding objective, in particular, when -

- (a) exercising any power given to it by legislation;

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- (b) applying any practice direction; or
- (c) interpreting any rule or practice direction.

**Part 2**  
**Practice Direction**

**Issuance of practice direction**

**2.1**—(1) A practice direction may be issued by the Chief Justice in any case where provision for such a direction is made by these Rules.

(2) Where there is no express provision in these Rules for such a direction, the Chief Justice may give a direction as to the practice and procedure to be followed.

**Publication and effective date of practice direction**

**2.2** — (1) A practice direction must be –

- (a) published in the Gazette; and
- (b) displayed and made available in the office of the Criminal Division.

(2) A practice direction comes into force on the date specified in the direction.

**Compliance with practice direction**

**2.3** A party must comply with any relevant practice direction.

**Part 3**  
**Rules of General Application**

**When Court shall hear criminal matters**

**3.1** Judges, masters and magistrates in the Criminal Division shall hear criminal matters between the hours of 9:00 a.m. and 4:30 p.m. Monday to Friday with the exception of a statutory holiday, unless otherwise provided by practice direction or unless the Chief Justice, the Presiding Judge, a judge, master or magistrate presiding in any criminal proceeding directs that any matter be heard at any other hour or on any other day.

*Criminal Procedure Rules***Opening hours of the office of the Criminal Division**

3.2—(1) The office of the Criminal Division shall be open to the public for the filing of documents between the hours of 9:00 a.m. and 3:00 p.m. every Monday to Friday, except on statutory holidays.

(2) Notwithstanding subrule (1), a document that is filed electronically or otherwise with the Criminal Division -

- (a) after 3:00 p.m. on any day when the office is open to the public for business;
- (b) on the weekend or statutory holiday, shall be dated and deemed filed on the next business day.

(3) The office of the Criminal Division shall be open to the public for the receipt of cash and other payments between 9:00 a.m. and 3:00 p.m. every Monday to Friday, except on a statutory holiday.

**Criminal Division records to be in electronic form**

3.3 Criminal Division records shall be created, entered and maintained electronically to the extent possible.

**Verbatim records to be made**

3.4 Official verbatim records of all criminal proceedings shall be made on audio recording equipment unless the Presiding Judge, judge, master or magistrate presiding in any criminal proceedings directs that the recording of any proceedings or any part of proceedings should be made by stenographic reporting or other method approved by the Presiding Judge.

**Courtroom events to be recorded**

3.5 Courtroom events shall be directly entered through computer terminals in the courtroom and if terminals are not available in the courtroom, the events shall be recorded on other computers or by other means authorized by the Presiding Judge, judge, master or magistrate and shall, as soon as possible thereafter, be entered into the electronic case management system.

*Criminal Procedure Rules***Copies of orders**

**3.6** Upon payment of the prescribed fee, the parties in any criminal proceedings shall be provided with copies of any order issued by the Court in the proceedings.

**Electronic filing**

**3.7** Police officers and other persons authorized by practice direction may use the electronic filing program in use at the Criminal Division to electronically submit and file, in the format required by the filing program, complaints and any other documents that are required or that may be filed with the Court.

**Application for adjournment**

**3.8—(1)** Save in exceptional circumstances, a notice of application for adjournment shall be made in writing, giving reasons for the application, not less than fourteen days prior to the date of the hearing or trial, through the office of the Criminal Division.

(2) An application for adjournment shall be granted only if good cause is shown.

(3) Unless the Court orders otherwise, a defendant and any witness who is bound over to appear must appear in Court on the date set for the hearing of an application for adjournment.

**Summary cases – time goals**

**3.9** In consultation with the judges, masters, magistrates, legal practitioners, and others, the Presiding Judge shall establish time goals for the disposition of summary cases.

**Persons remanded in custody – commencement date of trial**

**3.10** The trial of a person remanded in custody shall commence within six months after the indictment is preferred, unless a bail review is carried out prior to the expiry of the six months and the prosecution satisfies the Court that the Custody Order should be continued and that the postponement of the trial is justified.

*Criminal Procedure Rules***Trial of persons remanded in custody in default of bail**

**3.11** Persons remanded in custody in default of bail shall receive priority for trial or other hearings.

**Trial of persons charged with murder or serious violent indictable offence**

**3.12** The trial of a person charged with -

- (a) murder shall, as far as practicable, commence within sixty days after the indictment is preferred;
- (b) a serious violent indictable offence, other than murder shall, as far as practicable, commence within thirty days after the indictment is preferred.

**Power to extend time**

**3.13** In the absence of expressed provision to the contrary in these Rules or the Criminal Code Cap.3.01, or any other enactment, the Court may, where it is considered in the interest of justice to do so, extend the time for doing any act under these Rules.

**Expedited hearing when virtual complainant, defendant or witness about to leave the jurisdiction**

**3.14** — (1) The Director of Public Prosecutions or a defendant may request an expedited hearing in cases where the virtual complainant, the defendant or a witness is not ordinarily resident in Saint Lucia or is a resident who is about to leave the jurisdiction without expectation of return.

(2) An expedited hearing shall not be granted if the expedited hearing would prejudice the person charged.

**Jurisdiction starts with service of summons or arrest**

**3.15** The Court has immediate jurisdiction over a person accused of committing an offence when -

- (a) a summons is served on that person; or
- (b) the person is arrested, with or without an arrest warrant.

*Criminal Procedure Rules***Transmission of summons and arrest warrant to the police**

**3.16—**(1) The Court shall transmit a summons or arrest warrant to the police by hard copy or by electronic means.

(2) A printed copy of a summons or arrest warrant transmitted by electronic means in accordance with subrule (1) is a valid copy.

**Transmission of summons and arrest warrant to the Director of Public Prosecutions**

**3.17** The Court shall transmit a copy of every summons and arrest warrant to the Director of Public Prosecutions and may transmit them electronically.

**Part 4****Complaint, Summons and Arrest Warrant****Complaint preceding arrest warrant**

**4.1** A complaint shall be made on oath or affirmation by a complainant or a witness on his or her behalf, before the Court issues a warrant in the first instance to arrest a defendant.

**Complaints made by police officer**

**4.2—**(1) The general rule is that a complaint by a police officer shall be in writing and shall be signed by the officer making the complaint.

(2) A police officer may file a complaint on -

- (a) oath; or
- (b) affirmation,

and shall sign a certificate certifying that the statements in the complaint are true to the best of his or her knowledge and belief and that the officer is aware that willfully making a false statement in a complaint makes the officer liable to punishment.

(3) A police officer may file a complaint or a complaint on oath or affirmation by transmitting the document electronically to the office of the Criminal Division and the officer's typewritten name on the electronic document shall be deemed to be the officer's handwritten signature if accompanied by an authorized password issued by the Criminal Division Manager.

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(4) A certificate in lieu of oath made in accordance with this rule is deemed to be equivalent to an oath.

**Note:** This rule permits the police to use available technology to certify the truth of a statement on a complaint or information without having to travel to Court to swear an oath.

**One defendant for each complaint**

**4.3** Where there is more than one defendant, a separate complaint shall be filed with respect to each complaint.

**Summons****Content of summons**

**4.4—(1)** A summons shall state –

- (a) briefly, the substance of the complaint;
- (b) the –
  - (i) date and time when; and
  - (ii) place where,

the person named in the complaint as a person who has committed or is suspected to have committed an offence is to appear before the Court;

- (c) require the person named in the complaint as a person who has committed or is suspected to have committed an offence to appear before the Court that issued the summons on the date and at the time and place stated in the summons to answer the complaint and be further dealt with according to law; and
- (d) inform that person that a warrant may be issued for his or her arrest if he or she fails to appear.

(2) A summons shall be signed by the magistrate, judge, or master issuing it or shall state the name of the magistrate, judge or master issuing it and be authenticated by the signature of the Criminal Division Manager.

(3) In this rule where a signature is required, an electronic signature incorporated in the summons shall satisfy this requirement.



*Criminal Procedure Rules***Service of summons**

**4.5** — (1) A summons shall be served within forty-five days after the date of the filing of a complaint.

(2) The Criminal Division Manager shall arrange service of the summons.

(3) A copy of a summons may be served by a sheriff, bailiff, process server or police officer upon the person to whom it is directed, by either delivering it to him or her personally or by leaving it for him or her at his or her last or most usual place of abode where it is not convenient or possible to deliver it to him or her personally.

(4) A defendant in respect of whom a summons has been issued is deemed to be lawfully served if the summons -

- (a) in the case of the defendant being a master or seaman or person employed in any ship or vessel, is left within the hands of a person employed on board the ship or vessel; or
- (b) in the case of the defendant being a partnership, company, association, or corporation, is left at the ordinary place of business with a partner, director, secretary, manager, or other official thereof, or if the partnership, company association, or corporation is served in the same manner as if the proceedings were in the civil court.

(5) A body of trustees may be summoned by serving a summons on any one of them resident in the State or on their known legal representative.

**Proof of service of summons**

**4.6** — (1) Service of a summons may be proved by a certificate of service on oath, endorsed on a copy of the summons and signed by the person who served the summons.

(2) A certificate of service shall state -

- (a) the date and time of service;
- (b) the precise place or address at which the summons was served;
- (c) the precise manner by which the person on whom the summons was served was identified; and

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(d) the precise manner in which the summons was served.

(3) A certificate of service shall be filed with the Court promptly after service and in any event before any further action is taken on the matter before the Court.

(4) Failure to execute or file a certificate of service does not affect the validity of the service.

(5) The Court may, at any time, allow an amended certificate of service to be filed unless injustice would result.

(6) The Court may also receive proof of service by affidavit made before a magistrate or justice of the peace.

(7) A person who serves a summons may file a certificate of service or an affidavit of service electronically.

(8) A person who serves a summons and files a certificate of service or an affidavit of service electronically, may use a typewritten signature, accompanied by an authorized password registered with and approved by the Court, in lieu of a handwritten signature on the certificate or affidavit.

(9) A person who serves a summons, shall, where –

- (a) the person served fails to appear and there is doubt as to service; or
- (b) on filing a certificate or affidavit of service the service is contested,

attend Court at a time and place specified by the Court, in order, if necessary, to prove the service in the manner specified in these Rules.

(10) The magistrate before whom the accused ought to appear may, in his or her discretion, receive proof of service by affidavit, which may be made before any magistrate or justice of the peace and may not require the appearance of the person who served the summons.

**Note:** This rule incorporates the provisions of section 788 of the Criminal Code, Cap.3.01. The certificate of service replaces the affidavit. These Rules also provide for the certificate of service to be transmitted to the Court electronically.

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### **Application of rules 4.5 and 4.6 to witness statements**

**4.7** Rules 4.5 and 4.6 apply *mutatis mutandis* to witness statements.

### **Unexecuted Arrest Warrant**

#### **Report on unexecuted arrest warrant**

**4.8**—(1) The Criminal Division Manager shall prepare detailed quarterly reports on the status of all arrest warrants, including bench warrants that were issued during that period.

(2) Where there are arrest warrants that are unexecuted for more than thirty days a magistrate or the Presiding Judge may enquire of the Commissioner of Police as to the status of the unexecuted warrants.

#### **Discharge of arrest warrant**

**4.9** The Court may discharge an unexecuted arrest warrant for good cause shown.

#### **Case inactivation**

**4.10** Where a warrant for the arrest of a defendant remains unexecuted for a period of twelve months after the date of issue of the warrant, the case will be placed on an inactive list and will be reactivated when the warrant is executed.

## **Part 5 Bail**

### **Bail set when arrest warrant issued**

**5.1**—(1) At the time of issuing an arrest warrant, the judge, master, magistrate or justice of the peace, as the case may be, shall set terms and conditions of bail, unless bail is denied, pending the initial hearing.

(2) The terms and conditions referred to in subrule (1) shall be endorsed on the warrant and the officer in charge of the police station to which the defendant is taken shall arrange for the defendant's release on bail in accordance with those terms and conditions.

(3) Notwithstanding, subrule (1) shall not apply to offences where the defendant is alleged to have committed murder, rape, robbery, arson, any drug-trafficking offence under the Drugs (Prevention of Misuse)

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Act, Cap.3.02 punishable on indictment by imprisonment of not less than five years, or any offence under the Firearms Act, Cap.14.12.

**Review of bail conditions of persons remanded in custody**

5.2—(1) The Criminal Division Manager shall prepare by the 15<sup>th</sup> day of every month a list of all persons who are remanded in custody and are unable to satisfy the conditions of bail.

(2) The list referred to in subrule (1) shall contain for each person listed, the date of remand, bail conditions, and a brief summary of bail applications made.

(3) The Presiding Judge shall cause the list referred to in subrule (1) to be reviewed by a judge or master who may, with or without application being made by or on behalf of the defendant, vary the conditions of bail, but no such variation shall impose more onerous conditions.

**Application for bail**

5.3—(1) An application for bail must be made in writing to the High Court in Form 1 as set in the Schedule.

(2) The application for bail must -

(a) specify -

(i) each offence charged; and

(ii) if applicable, each relevant previous bail decision and the reasons given for each;

(b) explain -

(i) as appropriate, the reasons that the Court should not withhold bail; and

(ii) what further information or legal argument, if any, that has become available since the most recent previous bail decision was made;

(c) propose the terms of any suggested condition of bail; and

(d) if the applicant wants an earlier hearing than subrule (9) requires, make such a request, and explain the reasons for that request.

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(3) An opposition to bail or an application to withdraw, impose or vary a condition of bail shall be made in writing in Form 2 as set in the Schedule and shall –

- (a) state the reasons that the Court should refuse, withdraw, impose or vary a condition of bail;
- (b) in the case of an application to withdraw, impose or vary a condition of bail, state what material information has become available since the most recent previous bail decision was made; and
- (c) in the case of an application to impose or vary a condition of bail, state the conditions proposed and the purpose each would serve.

(4) A prosecutor who makes an application under subrule (3) must-

- (a) notify the office of the Criminal Division and the defendant within twenty-four hours of service of the application;
- (b) within seventy-two hours file and serve on the defendant notice of the reasons for opposition; and
- (c) serve on the defendant, notice that the Court has power to withdraw bail and, if the defendant is absent when the Court makes its decision, order the defendant's arrest.

(5) A defendant who makes an application for bail must -

- (a) if he or she is in custody and is not represented by a legal practitioner, lodge the application with the Director of Correctional Services;
- (b) if he or she is in custody and is represented by a legal practitioner, file the application at the office of the Criminal Division.

(6) The Director of Correctional Services or other person referred to in subrule (5)(a) who receives a copy of the application from a defendant must immediately file the application at the office of the Criminal Division.

(7) The office of the Criminal Division must -

- (a) if the application is made by the defendant, immediately send a copy of the application to the Director of Public Prosecutions;

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- (b) fix a date, time and place for the Court to hear the application as soon as practicable and in any event -
    - (i) if it is an application to grant or withdraw bail, no later than seven business days after it was served;
    - (ii) if it is an application to impose or vary a condition, no later than fourteen business days after it was served;
  - (c) give notice of the date, time and place to -
    - (i) the applicant;
    - (ii) the Director of Public Prosecutions; and
    - (iii) if the applicant is in custody, the Director of Correctional Services.
- (8) The Court may -
- (a) vary or waive a time limit under this rule; or
  - (b) allow an application to be in a different form to the form set out in the Rules, or to be made orally.

**Application for review of a decision of a magistrate**

**5.4—(1)** An application to review a decision of a magistrate must be in Form 1 in the Schedule to these Rules.

(2) If the applicant is in custody and is not represented by a legal practitioner, the application must be lodged with the Director of Correctional Services.

(3) The Director of Correctional Services must immediately file the application at the office of the Criminal Division.

- (4) If the applicant is -
- (a) not in custody; or
  - (b) represented by a legal practitioner;

the applicant must file the application at the office of the Criminal Division.

- (5) The office of the Criminal Division must immediately -
- (a) send a copy of the application to the Director of Public Prosecutions;

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- (b) fix a date, time and place to hear the application; and
- (c) give notice of the date, time and place to –
  - (i) the applicant;
  - (ii) the Director of Public Prosecutions; and
  - (iii) if the applicant is in custody, the Director of Correctional Services.

**Hearing of application for review of a decision**

**5.5—(1)** The Court may confirm, modify or reverse the decision of the magistrate.

(2) The office of the Criminal Division must serve a copy of any order on the –

- (a) Senior Magistrate, if any;
- (b) Director of Correctional Services; and
- (c) magistrate or clerk of the Court of the magistrate who made the decision under review.

**Part 6****Initial Proceedings in Criminal Division****Stages in proceedings**

**6.1 -- (1)** The major stages in the proceedings of summary cases in the Criminal Division are:

- (a) orientation session;
- (b) initial hearing;
- (c) pre-trial case management;
- (d) omnibus conference; and
- (e) trial.

(2) The major stages in the proceedings of indictable cases in the Criminal Division are:

- (a) orientation session;
- (b) initial hearing;

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- (c) sufficiency hearing;
- (d) indictment;
- (e) arraignment;
- (f) case management conference;
- (g) omnibus conference; and
- (h) trial.

**Orientation session**

**6.2—**(1) An orientation session for a defendant shall be held prior to the initial hearing and shall be conducted by a member of the Criminal Division case management team.

- (2) The orientation session serves the following purposes -
- (a) to take attendance;
  - (b) to note adjournment requests;
  - (c) to prepare a bench warrant list for the magistrate's review in the event of non-appearance of a summoned defendant;
  - (d) to verify the accuracy of information concerning a defendant's address and contact information;
  - (e) to cross-check a defendant's name against the Court's warrant and criminal history file;
  - (f) to acquaint a defendant with Court procedures.

**Access to police investigation reports**

**6.3—**(1) A magistrate may order the prosecutor to permit a defendant or his or her legal practitioner to inspect police investigation reports prior to the initial hearing.

(2) After the initial hearing, copies of the reports shall be made available to the defendant or his or her legal practitioner by such date as the magistrate shall order.

**Note:** This rule encourages early disclosure by the police to assist the defendant in his or her plea.



*Criminal Procedure Rules***Notice of acting**

**6.4** At or prior to an initial hearing, the defendant or his or her legal practitioner shall file with the Court a Notice of Acting in Form 3 as set in the Schedule.

**Initial hearing list**

**6.5—(1)** The Criminal Division Manager shall prepare in advance a list of cases scheduled for each initial hearing and may cause a supplementary list to be prepared to include a defendant brought to Court on the same day that his or her initial hearing is held.

(2) A copy of the list shall be sent in hard copy or electronically to the Director of Public Prosecutions, the Police Prosecution Unit, the Director of Correctional Services and to other interested persons who request a copy.

**Initial hearing**

**6.6** An initial hearing shall be conducted by a magistrate designated by the Presiding Judge.

**Initial hearing in summary matters**

**6.7—(1)** An initial hearing in a summary matter shall include -

- (a) verifying the defendant's identity and contact information, unless verified previously at an orientation session;
- (b) verifying the Notice of Acting, if the defendant is represented;
- (c) reading the charges to the defendant;
- (d) explaining the defendant's rights;
- (e) explaining the plea process and taking of the plea;
- (f) considering bail;
- (g) hearing and reviewing any applications made by the prosecution or the defendant; and
- (h) notifying the defendant of the next Court date at which his or her appearance is required.

(2) Where the defendant is charged with an offence triable summarily, the magistrate shall explain the plea process to the defendant, including -

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- (a) that the defendant has the option to plead either guilty or not guilty;
  - (b) that if the defendant offers a plea of guilty to a summary offence, and the plea is accepted by the magistrate he or she will not receive a trial and will be sentenced by the magistrate;
  - (c) that if the defendant pleads not guilty, the case will be set down for case management or trial as the case may be and that a Scheduling Order that includes a projected trial date will be entered.
- (3) At an initial hearing in summary matters, the magistrate may -
- (a) conduct a trial at once if the defendant or prosecutor requests an immediate trial and the defendant or prosecutor, as the case may be, consents; or
  - (b) make a Scheduling Order that establishes a schedule of pre-trial events and a projected trial date in accordance with these Rules;
  - (c) make an Order that copies of the police investigation reports be made available to the defendant by a specified time;
  - (d) commit a matter listed on the early guilty plea scheme for an early guilty plea hearing.

**Initial hearing in indictable matters**

**6.8**—(1) An initial hearing in an indictable matter shall include all the items in rule 6.7(1), except that a magistrate shall not accept a plea to an indictable offence and shall forward the case to be dealt with by a judge or master.

(2) At an initial hearing in an indictable matter, the magistrate shall make a Scheduling Order fixing dates -

- (a) for the sufficiency hearing;
- (b) by which the defendant must retain an attorney-at-law or seek the appointment of an attorney-at-law at the expense of the State;
- (c) by which the defendant's application for appointment of an attorney-at-law must be determined; and

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(d) by which the attorney-at-law, whether retained or appointed, must file a Notice of Acting with the Court, if a Notice of Acting has not been filed.

(3) At an initial hearing in an indictable matter, the judge or master may commit a matter listed on the early guilty plea scheme for an early guilty plea hearing.

(4) Nothing in this Rule shall be construed as preventing a defendant from retaining legal representation at a subsequent stage of the proceedings.

(5) The Criminal Division shall cause a Scheduling Order made at the initial hearing to be served on -

- (a) the defendant;
- (b) the legal practitioner for the defendant;
- (c) the Director of Public Prosecutions; and
- (d) in cases where the defendant seeks legal representation at the expense of the State, the Attorney General.

**Explanation of rights**

**6.9** — (1) At the initial hearing, the magistrate shall inform the defendant of -

- (a) the offence charged by reading or causing the charge to be read to the defendant in a language that he or she understands;
- (b) the right to bail, if any;
- (c) the right to retain legal representation, including the right to request an adjournment to retain legal representation;
- (d) the right to have legal representation appointed at the expense of the State for certain indictable offences;
- (e) the right to remain silent, except as to plea and the right to know that any statement made may be used against him or her;
- (f) the right to enter a plea to the charges;
- (g) the right to trial, if a not guilty plea is entered; and
- (h) the right to an interpreter, if necessary.

*Criminal Procedure Rules***Accepting a guilty plea**

**6.10**—(1) Before accepting a plea of guilty, the judge, master or magistrate must assure himself or herself, by questioning the defendant either personally or, at the judge, master or magistrate's discretion, by calling upon the legal practitioner for the defendant to lead the questioning, that –

- (a) the defendant committed the offence;
- (b) the plea of guilty is voluntarily made, and not as a result of any threats or inducements not disclosed on the record; and
- (c) the plea of guilty is made with an understanding of the consequences of the plea.

(2) A judge, master or magistrate may refuse to accept a plea of guilty if he or she believes it is not in the interest of justice to do so.

(3) If a plea of guilty is rejected, no admission made by the defendant at that stage of the proceedings shall be admissible in evidence against the defendant at trial.

(4) Where the defendant enters a guilty plea before the master, the master may order a pre-sentence report and the case, along with the pre-sentence report shall be sent to the judge for sentencing.

**Part 7****Case Management - General Matters****Case management - General**

**7.1** The Criminal Division shall actively manage cases and this includes –

- (a) the early identification of real issues;
- (b) the early identification of the needs of witnesses;
- (c) achieving certainty as to what must be done, by whom, and when;
- (d) the early setting of a timetable for the progress of a case;
- (e) ensuring that evidence, whether disputed or not, is presented in the shortest and clearest way;
- (f) discouraging delay, dealing with as many aspects of the case as possible on the same occasion, and avoiding unnecessary hearings;

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- (g) encouraging the participants to co-operate in the progress of the case;
- (h) making use of technology; and
- (i) giving any direction appropriate to the needs of a case as early as possible.

**The Court's case management powers**

**7.2** — (1) The Criminal Division shall give any direction and take any step to actively manage a case, unless that direction or step would be inconsistent with any enactment, including these Rules.

(2) In particular, the Court may -

- (a) appoint a case manager to manage cases or to conduct omnibus conferences;
- (b) give a direction on its own initiative or on application by a party;
- (c) ask or allow a party to propose a direction;
- (d) for the purpose of giving directions, receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means;
- (e) give a direction without a hearing;
- (f) fix, postpone, bring forward, extend or cancel a hearing;
- (g) shorten or extend, even after it has expired, a time limit fixed by a direction;
- (h) require that issues in the case should be determined separately, and decide in what order they will be determined; and
- (i) specify the consequences of failing to comply with a direction.

(3) A Court hearing summary offences may give a direction that applies in the High Court if the case is to continue there.

(4) The High Court may give a direction that applies in a Court hearing summary offences if the case is to continue there.

(5) Any power to give a direction under this Part includes a power to vary or revoke the direction.

*Criminal Procedure Rules***Case preparation and progression**

**7.3—**(1) At every hearing, if a case cannot be concluded the Court must give directions so that it can be concluded at the next hearing or as soon as possible thereafter.

(2) At every hearing the Court must, where relevant –

- (a) if the defendant is absent, decide whether to proceed nonetheless;
- (b) take the defendant's plea, unless already done, or if no plea can be taken then find out whether the defendant is likely to plead guilty or not guilty;
- (c) set, follow or revise a timetable for the progress of the case, which may include a timetable for any hearing including the trial;
- (d) in giving directions, ensure continuity in relation to the Court and to the legal practitioners where that is appropriate and practicable; and
- (e) where a direction has not been complied with, find out why, identify who was responsible, and take appropriate action.

(3) In order to prepare for the trial, the Court must take every reasonable step –

- (a) to encourage and to facilitate the attendance of witnesses when they are needed; and
- (b) to facilitate the participation of any person, including the defendant.

**Conduct of a trial**

**7.4 —**(1) In order to manage a trial the Court –

- (a) must establish, with the active assistance of the parties, the disputed issues;
- (b) must consider setting a timetable that –
  - (i) takes account of those issues and of any timetable proposed by a party; and
  - (ii) limits the duration of any stage of the hearing;
- (c) may require a party to identify–

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- (i) the witnesses that party wants to give evidence in person;
  - (ii) the order in which that party wants those witnesses to give their evidence;
  - (iii) whether that party requires an order compelling the attendance of a witness;
  - (iv) the desired arrangements to facilitate the giving of evidence by a witness;
  - (v) the desired arrangements to facilitate the participation of any other person, including the defendant;
  - (vi) the written evidence that party intends to introduce;
  - (vii) any other material that person intends to make available to the Court in the presentation of the case; and
  - (viii) whether that party intends to raise any point of law that could affect the conduct of the trial; and
- (d) may limit–
- (i) the examination, cross-examination or re-examination of a witness; and
  - (ii) the duration of any stage of the hearing.

**Part 8****Summary Case Movement - Initial hearing to trial****Scheduling Order and case management conference**

**8.1** — (1) A Scheduling Order required by these Rules to be made at an initial hearing shall be made by a magistrate and shall set out the date -

- (a) by which the legal practitioner for the defendant must file a Notice of Acting in Form 3 with the office of the Criminal Division, if the defendant is granted an adjournment to retain a legal practitioner;
- (b) by which the prosecution must make disclosure;
- (c) by which the defence must disclose alibi or other special defences;
- (d) by which any pre-trial motions must be filed;
- (e) of the omnibus conference; and

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- (f) the projected trial date.
- (2) The Court may hold a case management conference as required.

**Monitoring and follow-up of Scheduling Orders and other cases**

8.2 The Court, through a designated person, shall actively monitor and follow-up on scheduling orders in order to keep cases moving on a timely basis and it shall cause to be reviewed on a regular basis all pending cases, to ensure that proper notifications have been given, and other necessary action taken.

**Omnibus conference – summary matters**

- 8.3—(1) The omnibus conference serves the following purposes -
- (a) to review the status of disclosure;
  - (b) to discuss trial readiness issues and action to be taken to cure any defects in readiness;
  - (c) to set out issues to be resolved at trial;
  - (d) to arrange for mediation or restitution discussions when appropriate;
  - (e) to review a defendant's sentence exposure and sentence options;
  - (f) to discuss plea and sentence reduction possibilities still available in consideration of guilty plea;
  - (g) to discuss witness lists and the need to subpoena witnesses;
  - (h) to identify possible scheduling conflicts and ways to resolve them;
  - (i) to determine whether an interpreter will be needed at trial;
  - (j) to set a firm trial date;
  - (k) to set down for hearing by a magistrate any legal issues that must be resolved prior to trial; and
  - (l) to set a hearing date before a magistrate for a defendant who so desires to withdraw his or her plea of not guilty and enter a plea of guilty instead.
- (2) Unless the Court orders otherwise, an omnibus conference shall be held on the date specified in the Scheduling Order.
- (3) The conference shall be conducted by a magistrate.



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(4) The legal practitioner for the defendant, and the prosecutor shall attend the conference.

**Failure to prosecute**

**8.4** The Court may dismiss any summary matter or matter that can be disposed of summarily if -

- (a) the charge has been pending for more than 180 days; and
- (b) the trial has not commenced and the delay is not attributable to the defendant.

**Part 9**  
**Hybrid Cases**

**Procedure**

**9.1** Where an indictable offence under the circumstances stated in rules 10.3 to 10.9, is, authorized to be dealt with summarily -

- (a) the procedure shall, unless the Court exercises its power to deal with the offence summarily, be the same in all respects as if the offence were to be dealt with throughout the trial as an indictable offence, but when the Court exercises its power to deal with the offence summarily, the same procedure shall apply as if the offence were a summary offence and not an indictable offence, and the provisions of these Rules shall apply accordingly;
- (b) the evidence of any witness taken before the Court exercised its power to try the offence summarily need not be taken again, but every witness shall, if the defendant so requires it, be recalled for the purpose of cross-examination;
- (c) a conviction for the offence shall have the same effect as a conviction for the offence on indictment;
- (d) where the Court exercises the power to deal with the case summarily, and dismisses the complaint, it shall, if required, deliver to the person charged a copy of the order of dismissal duly certified under the hand of the judge, master or magistrate and such dismissal shall have the same effect as an acquittal on a trial on indictment for the offence;

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- (e) in the case of a child, the conviction shall contain a statement, as to the consent or otherwise of his or her parent or guardian, and, in case of a young person, of the consent of the person, to be tried by the Court.

**Part 10****Indictable Case Movement - Initial hearing to trial****Indictable case cause list**

**10.1** The date of the initial hearing of the complaint shall be the summons return date or a date as soon as possible after arrest unless the defendant has not been granted bail in which case, the initial hearing shall be scheduled for a date within 96 hours of arrest.

**Transmission of documents to the Director of Public Prosecutions**

**10.2—(1)** At the conclusion of the initial hearing for an indictable offence, the Criminal Division Manager shall transmit to the Director of Public Prosecutions copies of all relevant documents, as requested by the Director of Public Prosecutions.

*Note:* See Part 6 on initial hearings.

(2) The Criminal Division Manager shall transmit to the Director of Public Prosecutions a copy of the Notice of Acting entered by the legal practitioner for the defendant or shall notify the Director of Public Prosecutions if the notice has not been entered in accordance with the Scheduling Order.

**Sufficiency hearing**

**10.3—(1)** Within sixty days of the initial hearing, or such other reasonable time fixed by Order of the Court, a sufficiency hearing shall be held before a judge or master to determine if the prosecution has disclosed sufficient evidence to meet the burden of going forward with the criminal prosecution and thereby to require the defendant to stand trial before a judge and jury.

(2) At the sufficiency hearing a judge or master shall examine only such documentary evidence as the prosecution may submit including, but not limited to, the complaint, police investigation reports, and victim and witness statements.

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(3) The prosecution shall provide to the defendant, not less than seven days before the date of the sufficiency hearing, copies of all documents he or she intends to use at the sufficiency hearing.

(4) The documentary evidence submitted by the prosecution must disclose *prima facie* evidence that an indictable offence has been committed and that the defendant has committed it.

(5) The probative value of the documentary evidence submitted by the prosecution must be sufficient for the Court to find as a matter of law that a jury, taking the evidence in the light most favourable to the prosecution, could return a verdict of guilty against the defendant.

(6) Where a defendant does not have legal representation at a sufficiency hearing, the Court shall cause all documentary evidence submitted by the prosecution to be tendered by being read out aloud, except where the Court directs otherwise.

(7) The sufficiency hearing shall be attended by the prosecutor, police investigators, the defendant, and the legal practitioner for the defence, if any.

(8) At the conclusion of the sufficiency hearing the legal practitioners representing the parties may make submissions.

(9) A sufficiency hearing shall be held in open Court unless -

(a) a provision of the Criminal Code, Cap.3.01 or these Rules provide otherwise; or

(b) the circumstances require confidentiality as to certain charges; in which case the proceedings shall be held in chambers.

(10) If the Court finds that the prosecution has met its burden, it shall commit the defendant to stand trial, and if it finds that the prosecution has not met its burden, it shall discharge the defendant.

**Written statements at sufficiency hearing**

**10.4** — (1) Witness statements submitted to the Court and used in a sufficiency hearing shall, if the conditions mentioned in subrule (2) are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person at trial but the judge may exclude such evidence if he or she is of the opinion that such evidence ought to be excluded in the interest of justice.

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- (2) The conditions referred to in subrule (1) are that -
- (a) the statement purports to be signed by the deponent;
  - (b) the statement contains a declaration by the deponent to the effect that it is true to the best of his or her knowledge and belief and that he or she made the statement knowing that, if it were tendered in evidence, he or she would be liable to prosecution if he or she willfully stated in it anything which he or she knew to be false or did not believe to be true;
  - (c) before the statement is tendered in evidence a copy of the statement is given by or on behalf of the prosecutor, to each of the other parties to the proceedings; and
  - (d) prior to the sufficiency hearing the Court and other parties to the proceedings were informed of the intention to seek to have the witness statements submitted in evidence at the trial and none of the other parties, before the statement is tendered in evidence at the sufficiency hearing, objects to the statement being tendered under this rule.

(3) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this rule shall be treated as if it had been produced as an exhibit and identified by the maker of the statement.

(4) The parties to the proceedings may cross-examine witnesses during the sufficiency hearing only where the judge or master so permits.

**Indictment****Director of Public Prosecutions may prefer or decline to prefer indictment**

**10.5—**(1) If the Court commits a defendant to stand trial, the Director of Public Prosecutions may prefer an indictment or may decline to prefer an indictment.

(2) If the Director of Public Prosecutions declines to prefer an indictment, he or she shall give written notice to the Presiding Judge and the defendant.

(3) If the Director of Public Prosecutions intends to indict, the indictment must be preferred within a reasonable time after the conclusion of the sufficiency hearing.

*Criminal Procedure Rules***Dismissal for delay**

**10.6—**(1) If there is unreasonable delay in preferring an indictment, the Presiding Judge may order dismissal of the complaint on his or her own motion or that of the defendant.

(2) The Director of Public Prosecutions shall be given notice and an opportunity to be heard before an order dismissing a complaint is made.

**Signing of indictments**

**10.7—**(1) Subject to subrules (2) and (3), all indictments shall be signed by the Director of Public Prosecutions or his or her designee, and a statement on the indictment stating that the designee is acting for the Director of Public Prosecutions is sufficient evidence of that fact.

(2) Where under any enactment any injured party or complainant is entitled to prosecute privately, the indictment shall be signed by that party or a legal practitioner acting on his or her behalf but not by the Director of Public Prosecutions.

(3) The Criminal Division shall not receive an indictment from any private prosecutor unless -

- (a) the indictment has been endorsed by a certificate of the Director of Public Prosecutions to the effect that he or she has seen such indictment and declines to prosecute at the public instance the offence set out in the indictment; and
- (b) the private prosecutor has given the required security to prosecute the indictment to conclusion at the time at which the defendant shall be required to appear and has paid such costs as may be ordered by the Court in exceptional circumstances.

**Filing of indictments**

**10.8—**(1) Indictments shall be filed in the office of the Criminal Division.

(2) Copies of the indictment for service shall also be supplied to the Criminal Division Manager.

*Criminal Procedure Rules***Service of copy of indictment**

**10.9** A copy of the indictment filed against a defendant shall be served on the defendant.

**Part 11  
Arraignment**

**Arraignment and Scheduling Order**

**11.1** Upon the return of an indictment, a judge shall arraign the defendant and enter a Scheduling Order setting forth the next steps in the process, including—

- (a) the date by which the prosecution and defence, if applicable, must make required disclosure;
- (b) the date by which pre-trial applications must be filed;
- (c) the date of the omnibus conference; and
- (d) the projected trial date, and the Court may hold a scheduling conference to establish a plan for the case.

**Explanation of rights and plea process at arraignment**

**11.2—(1)** At arraignment, the judge shall inform the defendant of -

- (a) the offence with which he or she is charged by reading or causing the indictment to be read;
- (b) the right to enter a plea to the charge;
- (c) if necessary, the right to bail;
- (d) the right to receive an indication of the applicable range of sentences or options for sentencing prior to entering a plea;
- (e) the right to an interpreter, if necessary;
- (f) the right to trial by jury if a not guilty plea is entered; and
- (g) the right to know the maximum penalty and any mandatory minimum penalty provided by law for the offence charged.

(2) The judge shall explain the plea process to the defendant, including that -

- (a) the defendant has the option to plead either guilty or not guilty or to plead any of the special pleas permitted by law;

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- (b) if the defendant pleads not guilty, the case will be scheduled for trial;
- (c) sentence may be reduced if there is an early guilty plea; and
- (d) sentence reduction will be less for a defendant who pleads guilty at a later stage.

**Plea to the indictment at arraignment****Plea of guilty**

**11.3—**(1) Before accepting a plea of guilty to an indictment, the judge must assure himself or herself, either by questioning the defendant personally, or, at the judge's discretion, by calling upon the legal practitioner for the defendant to lead the questioning, that –

- (a) the defendant committed the offence;
- (b) the plea of guilty is voluntarily made; and
- (c) the plea of guilty is made with an understanding of the consequences of the plea.

(2) A judge may refuse to accept a plea of guilty if he or she believes it is not in the interest of justice to do so.

(3) If a plea of guilty is rejected, an admission made by the defendant during the proceedings in which the guilty plea was made shall not be admissible in evidence against the defendant at trial.

**Plea - sentence indication and reduction in sentence**

**11.4 —** (1) Except in cases where a minimum sentence is mandated by law, a judge may give a defendant who pleads guilty at arraignment credit for an early plea of guilty, thereby reducing the sentence that would have been imposed had the defendant been convicted at trial.

(2) Where the defendant who intends to plead guilty to an offence alleged in a charge, or any other specified offence, makes an application for a sentence indication, the judge may give such an indication.

(3) The Chief Justice shall, by practice direction, authorize the procedure for sentence indication on an early guilty plea.

*Criminal Procedure Rules***Plea of not guilty**

**11.5** Where the defendant pleads not guilty at arraignment, the Court may schedule a case management conference to develop a plan for the case and take such other action as may be necessary to streamline and expedite the case for trial.

**Part 12****Case Management Conference****Case management conference**

**12.1—** (1) Immediately following the arraignment of the defendant or at such other time as may be fixed by the judge, the judge may make case management orders, as required.

(2) Upon application of the prosecutor or the defendant, the Court may order that a witness give testimony under oath and be subjected to cross-examination prior to the trial and that the sworn testimony be used as evidence at the trial, if the Court is satisfied that the witness' evidence is material and that there is a high probability that the witness will not be available to the Court on the date of the trial.

(3) At the case management conference, the judge shall make an order scheduling further events in the case, including:

- (a) the date by which the Director of Public Prosecutions must disclose to the defendant any prosecution material which has not previously been disclosed;
- (b) the date by which the defendant must plead an alibi or any other special defence;
- (c) the date by which the defendant must give the defence statements required by law, if applicable;
- (d) the date for the filing of any pre-trial motions;
- (e) the date for any subsequent case management conference that may be required;
- (f) the date for the omnibus conference; and
- (g) the projected trial date.

(4) The Court may hold one or more case management conferences as the interests of justice require.



*Criminal Procedure Rules***Disclosure by prosecution**

**12.2—**(1) The prosecutor must disclose to the defendant evidence on which the charge or charges are based within fourteen days of the preferment of the indictment.

(2) The prosecution must disclose to the defendant material not proposed to be used but which may be exculpatory, unless the judge excludes such material in the public interest.

(3) A defendant or his or her legal practitioner may make an application to the Court to permit the defendant to inspect and copy relevant prosecution material if not made available under subrule (1) or (2).

**Disclosure by defence**

**12.3—**(1) Where the defendant intends to plead and give evidence of a special defence, he or she shall give notice of such defence to the Court and to the prosecutor by the date fixed in the Scheduling Order and shall make available to the prosecutor, on the date set by the Court, any information which might be of material assistance, including -

- (a) the name and address of any witness the defendant believes is able to give evidence in support of the special defence if the name and address are known to the defendant when the statement is given;
- (b) any information in the defendant's possession which might be of material assistance in finding any such witness, if his or her name and address are not given.

(2) Where the defendant intends to plead an alibi, he or she shall give notice of such defence to the Court and to the prosecutor by the date fixed in the Scheduling Order and shall make available to the prosecutor, on the date set by the Court, information as to the particulars of time and place and of the witnesses by whom he or she proposes to prove the alibi.

**Protective order**

**12.4** Upon application for good cause shown, the Court may at any time order that the disclosure sought pursuant to rule 12.3 be denied, restricted, or deferred or make such other order as is appropriate and may hear the application in chambers.

**Omnibus Conference - indictable offences**

**12.5**—(1) An omnibus conference serves the following purposes-

- (a) to review the status of disclosure;
- (b) to discuss trial readiness issues and action to be taken to cure any defects in readiness;
- (c) to set out issues to be resolved at trial;
- (d) to arrange for mediation or restitution discussions when appropriate;
- (e) to discuss witness lists and the need to subpoena witnesses;
- (f) to identify possible scheduling conflicts and ways to resolve them;
- (g) to determine whether an interpreter will be needed at trial;
- (h) to set a firm trial date;
- (i) to set down for hearing any legal issues that must be resolved prior to trial; and
- (j) to set a hearing date for a defendant who so desires to withdraw his or her plea of not guilty and enter a plea of guilty instead.

(2) Unless the Court orders otherwise, an omnibus conference shall be held on the date specified in the Scheduling Order.

(3) The conference shall be conducted by a judge or a master if directed by the Presiding Judge.

(4) The defendant, his or her legal practitioner and the prosecutor shall attend the conference.

**Part 13****Trial on indictment****Jury administration**

**13.1**—(1) The Criminal Division Manager shall carry out the functions and duties ascribed to the sheriff and the Registrar in Sub-Part B of Part VI of the Criminal Code, Cap.3.01.

(2) A computer program and database developed in compliance with the relevant legislation concerning jurors lists, approved by the Chief Justice for the purpose, may be used in lieu of the Juror's Book for the selection, summoning and empanelling of jurors and for the calculation of fees to be paid to jurors.

*Criminal Procedure Rules***Trial to be by judge and jury**

**13.2** Every indictable case shall be tried and decided by a judge and jury constituted in accordance with the provisions of the Criminal Code, Cap.3.01 and these Rules.

**Conduct of a trial**

**13.3** In order to manage the trial, the Court may require a party to identify -

- (a) the witnesses the party intends to call to give oral evidence;
- (b) the order in which the party intends that those witnesses will give their evidence;
- (c) whether the party requires an order compelling the attendance of a witness;
- (d) the arrangements, if any, the party proposes to facilitate the giving of evidence by a witness;
- (e) the arrangements, if any, the party proposes to facilitate the participation of any other person, including the defendant;
- (f) the written evidence the party intends to introduce;
- (g) any other material the party intends to make available to the Court in the presentation of the case;
- (h) whether the party intends to raise any point of law that could affect the conduct of the trial or appeal; and
- (i) the timetable the party proposes and expects to follow.

**Notice of right to appeal**

**13.4** Upon conviction, the Court shall notify the convicted person of his or her right to appeal and explain how and when a notice of appeal may be filed.

**Part 14****General Procedural Matters****Case management forms and records**

**14.1**—(1) The case management forms may be prescribed by practice direction and the prescribed forms must be used.

(2) Where there is no form no specific formality is required.

*Criminal Procedure Rules*

(3) The Court must make available to the parties a record of case management directions given.

**Forms in Criminal Code**

**14.2** The forms set out in the Fifth Schedule to the Criminal Code with such variations and additions as the circumstances of the particular case may require, or forms to the like effect, may be used in the cases to which they respectively apply, and shall be deemed good, valid and sufficient for the purposes of these Rules.

**Part 15**  
**Miscellaneous**

**Pending matters**

**15.1—(1)** Any matter pending on the date of commencement of these Rules shall be dealt with as if it were commenced under these Rules and for this purpose all documents forming part of the record of the proceedings shall be read with all necessary adaptations.

(2) The provisions of these Rules shall not affect the execution or enforcement of any decision given in respect of an application or matter prior to the commencement of these Rules.

**Practice directions**

**15.2** Any practice direction made under a rule repealed by these Rules shall not be invalidated by the repeal of that rule but shall remain in full force and shall have effect as if made under these Rules.

**Repeal**

**15.3** The Criminal Procedure Rules, No. 116 of 2008 are repealed.

*Criminal Procedure Rules*

**SCHEDULE**

(rules 5.3(1) and 5.4)

**Form 1**

**Application for Bail**

**Application to review a decision of a magistrate about Bail**

**THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE**

[Saint Lucia]

Claim No.            of

Between

A.B.

Applicant

and

C.D.

Respondent

**Notice of Application**

The Applicant,            A.B. (full names), of            (full address)  
applies to the Court for an order that bail be granted under the follow-  
ing conditions —

A draft of the order that I seek is attached.

The grounds of the application are —

[An affidavit in support accompanies this application]

Dated .....

Signed .....

[Legal practitioner for the] Applicant

*Criminal Procedure Rules*

**NOTICE:**

This application will be heard by the Judge in Chambers on day the day of, at am/pm at [xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.  
OR

The Judge in Chambers will deal with this application by --- NB This notice of application must be served as quickly as possible on the respondent to the application.

The office of the Criminal Division is at [xxx xxx xxx] telephone number xxx-xxxx, FAX xxx.xxxx. The office is open between [ ..... am.] and [ .....p.m.] ..... to ..... except public holidays.

**Form 2**

**Notice of Opposition to Bail**

**Application to withdraw, impose or vary a condition of bail**

(rule 5.3(3))

**THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE**

[Saint Lucia]

Claim No. of

Between

A.B.

Applicant

and

C.D.

Respondent

**Notice of Application**

The Applicant, A.B. (full names), of (full address) applies to the court for an order that bail be withheld/ withdrawn/ condition be varied.

*Criminal Procedure Rules*

A draft of the order that I seek is attached.

The existing bail conditions are —

The grounds of the application are —

[An affidavit in support accompanies this application]

Dated .....

Signed .....

[Legal practitioner for the] Applicant

**NOTICE:**

This application will be heard by the Judge in Chambers on      day the  
day of,                      at                      am/pm                      at [xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The Judge in Chambers will deal with this application by — NB This  
notice of application must be served as quickly as possible on the re-  
spondent to the application.

The office of the Criminal Division is at [xxx xxx xxx] telephone number  
xxx-xxxx, FAX xxx.xxxx. The office is open between  
[ ..... am.] and [ ..... p.m.] ..... to .....  
except public holidays.

*Criminal Procedure Rules*

**Form 3  
Notice of Acting**

(Rules 6.4, 6.7 and 8.1)

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE  
(CRIMINAL)

SAINT LUCIA

Claim No.

BETWEEN :

A.B.

Applicant

and

Respondent

C.D.

**NOTICE OF ACTING**

To: [The Registrar, Criminal Division ]  
[The Director of Public Prosecutions ]

Take NOTICE that I/We, \_\_\_\_\_, have been instructed to act on behalf of [ *name of Defendant* ], the Defendant in this claim.

Dated .....

Signed .....

.....  
[PRINT NAME OF LEGAL PRACTITIONER]

[Legal practitioner for the] Applicant

[ *Address for service of Legal Practitioner* ]



*Criminal Procedure Rules*

The office of the Criminal Division is at      Street, Castries, St. Lucia;  
Telephone Number [xxx xxx xxx, FAX Number xxx.xxxx. The office  
is open between [ ..... am.] and [ ..... p.m.] .....  
to ..... except public holidays.

Made this 4th day of March, 2015.

JANICE M. PEREIRA,  
*Chief Justice.*

