

No. 3 of 1993. *The Magistrate's Code of Procedure  
(Amendment) Act, 1993.*

ANTIGUA  
AND  
BARBUDA

L.S.

I Assent,

Wilfred Jacobs,  
*Governor-General.*

17th February, 1993.

**ANTIGUA AND BARBUDA**

**No. 3 of 1993.**

AN ACT to amend the Magistrate's Code of Procedure Act  
(Cap. 48).

[ 18th February, 1993 ]

ENACTED by the Parliament of Antigua and Barbuda as  
follows —

1. This Act may be cited as the Magistrate's Code of Procedure (Amendment) Act, 1993. Short title.

2. The Magistrate's Code of Procedure Act in this Act referred to as the principal Act is amended in section 95 by deleting the words "five hundred and substituting the words "five thousand". Amendment of section 95 of Cap. 48.

3. Section 97 of the principal Act is amended in subsection (1) — Amendment of section 97 of Cap. 48.

- (a) by deleting the words "eighteen months" and substituting the words "two years"; and
- (b) by deleting the words "two years" and substituting the words "three years".

*Handwritten signature: Wilfred Jacobs*

Amendment of  
section 119 of Cap.  
48.

4. Section 119 of the principal Act is amended as follows—

(a) by the substitution for sub-paragraph (4)(c) of the following —

"(c) that the defendant shall pay to the applicant personally, or for the use of the applicant to any officer of the Court or to a third person on behalf of the applicant, a weekly sum not exceeding seventy-five dollars. The Magistrate may, having regard to the means of both applicant and defendant, order the payment of a sum more than seventy-five dollars if he considers such increase just and reasonable".

(b) by the substitution for sub-paragraph (4)(d) of the following —

"(d) that the defendant shall pay to the applicant, or to an officer of the Court or to a third person on behalf of the applicant a weekly sum not exceeding thirty dollars for the maintenance of each of the children of the marriage. The Magistrate may, having regard to the means of both the defendant and the applicant and all other circumstances, order the defendant to pay a weekly sum of more than thirty dollars if he considers such increase just and reasonable".

(c) by the deletion of the words "fifteen dollars" in paragraph 4(e) and the substitution of the words "thirty dollars"; and

(d) by the deletion of the semicolon and the word "and" after the word "years" in paragraph 4(e) and the insertion of a full stop and the following:

"The Magistrate may having regard to the means of both the applicant wife and the defendant husband and all other circumstances, order the husband to pay a weekly sum of more than thirty dollars if he considers such increase just and reasonable."

5. Section 124 of the principal Act is repealed and replaced by the following — Section 124 of Cap. 48 repealed and replaced.

"(1) On the appearance of the person so summoned or on proof that the summons was duly served, the Magistrate shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the Magistrate, he may —

(a) adjudge the man to be the father of such child; and

(b) make an order on him for the payment to the mother of the child or to any person having custody of the child —

(i) a sum of money weekly not exceeding thirty dollars for the maintenance and education of the child; but he may, having regard to the means of both father and mother and all the circumstances, order a sum of money more than thirty dollars if he considers such increase just and reasonable.

(ii) a further sum of money for the expenses incidental to the birth of such child and of the funeral expenses of the child, provided it has died before the making of the order, and

(iii) such costs as may have been incurred in the obtaining of such order.

(2) Where an Order is made under subsection (1) in respect of the matters therein mentioned, the Magistrate by whom any such order for payment was made or any other Magistrate sitting in his stead may, on application by either the father or the mother of such child and having regard to the means of both father and mother and all other circumstances, order the father to pay a weekly sum of more than thirty dollars, if he considers such increase just and reasonable."

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Amendment of section 146 of Cap. 48.

6. Section **146** of the principal Act is amended by the addition immediately after subsection (3) of the following subsection —

"(4) The Minister may, by Order alter the fees prescribed in the Second Schedule."

Section 164 of Cap. 48 repealed and replaced.

7. Section **164** of the principal Act is repealed and replaced by the following —

"(1) Where **an** appeal is lodged against a decision, judgment or order of a Magistrate, the appellant may apply to the High Court for the suspension of the execution of such decision, judgment or order until the final determination of the appeal.

(2) If the Judge before whom the application is heard decides to suspend the execution of the decision, judgment or order of the Magistrate, he may order the appellant to give such security as he may, in the circumstances, consider appropriate."

Section 168 of the principal Act is repealed and replaced.

8. Section **168** of the principal Act is repealed and replaced by the following —

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

Section 235 of principal Act repealed and replaced.

9. Section **235** of the principal Act is repealed and replaced by the following —

"**235. (1)** The following fees shall be charged and payable upon proceedings taken and had before a Magistrate —

"For entering an **information** or a complaint \$20.00

For ~~the~~ entering of a **complaint** relating to the maintenance of a child or **children** 18.00

For every **summons** to a **defendant** 10.00

For every summons to a witness	10.00
For every warrant of arrest	15.00
For every search warrant	15.00
For every warrant of distress	20.00
For every declaration of proof under section 236	10.00

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

(3) The Magistrate shall return to a complainant any fees paid in respect of any proven information or complaint for larceny or malicious injury to property.

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

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

(5) The Minister may, by Order alter the fees prescribed in subsection (1).

10. The Second Schedule to the Magistrate's Code of Procedure Act is hereby repealed and replaced by the following new Schedule. **Second Schedule of principal Act repealed and replaced.**

**"SECOND SCHEDULE**

**1. COURT FEES**

(a)	Entering a Suit including Summons and Copy for Service and Judgment	\$25.00
(b)	Court Interpreter's Fees	50.00
(c)	Order for leave to sue in another district	10.00
(d)	Summons to witness a copy for service	\$10.00
(e)	Executions (Fi, Fa)	20.00
(f)	Warrant of distress under Small Trespass Act or possession or execution under the Small Tenements Act	20.00
(g)	Warrant of Committal under Small Trespass Act	20.00
(h)	Order of Attachment of moneys or <b>Ganishee</b> Summons	20.00
(i)	Any other Summons, including Copy for Service and Order thereon	20.00
(j)	Order for New Trial	20.00
(k)	Affidavit, each oath	10.00
(l)	Appointment of Estimators under Small Tenements Act	10.00

**2. BAILIFF'S FEES**

(a)	Service of Summons, Notice or other documents required	10.00
(b)	Arrest under order of Committal Summons, and taking person arrested to prison	20.00
(c)	Seizure of Property under Attachment, Possession or Execution	20.00

- (d) Taking Security or Bail and enquiring into sufficiency thereof 10.00
- (e) Levy Fee — 5 per cent, or net proceeds of sale

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

- (a) Where the amount claimed does not exceed \$100.00 fees shall be reduced by 50%.
- (b) Where the amount claimed exceeds \$200.00 all fees shall be increased by 50%.
- (c) Where no specific amount of claim is endorsed upon the Writ of Summons, then the scale of fees contained in paragraphs 1 and 2 of the Schedule shall be payable without variation, provided that the Magistrate shall — unless in exceptional circumstances — or by special additional Court fees to be paid by the party against whom judgment is given in all cases where the amount adjudged recoverable exceeds \$200.00 in accordance with the scale of fees contained in paragraph 3 (b) of this Schedule.
- (d) Where Counter Claims are set off against each other, whether for liquidated amount or not, each claim shall be calculated separately in deciding which scale of Court fees shall be chargeable therefor."

Passed the House of Representatives this 21st day of February, 1993. Passed the Senate this 11th day of February, 1993.

**C.L. Murray,**  
*Speaker.*

**B.T. Carrott,**  
*President.*

**L.A. Dowe,**  
*Clerk to the House of Representatives.*

**L.A. Dowe,**  
*Clerk to the Senate.*

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