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## **THE MAGISTRATES' COURTS**



# 1 Introduction

The *Magistrates' Courts Act – Cap 3 (MCA)* establishes Courts of summary jurisdiction in the Solomon Islands. These are the:

- Principal Magistrate's Court;
- Magistrates' Courts of the First Class; and
- Magistrates' Courts of the Second Class: *s3 MCA*.

The Chief Justice may direct that there be a Magistrate's Court in any particular district. Magistrates' Courts have been established in the:

- Central District;
- Malaita District;
- Western District;
- Eastern District; and
- Eastern Outer Islands District: *s50 Magistrates' Courts (Districts) Order 1962*.

The *MCA* confers both criminal and civil jurisdiction on Magistrates' Courts to hear and determine cases that arise in the area for which they are established.

The Chief Justice:

- can confer extra-territorial jurisdiction on individual Magistrates;
- decides on the jurisdiction to be exercised by each Court; and
- can confer on a Court specific jurisdiction to hear particular cases normally outside its jurisdiction.

Proceedings are in English: *s59 MCA*; *s183 Criminal Procedure Code – Cap 7*. This includes Solomon Islands pidgin: *s2 MCA*.

## 2 Governing Legislation

The *Magistrates' Courts Act* establishes and governs the Magistrates' Courts.

### **Criminal**

The *Criminal Procedure Code – Cap 7 (CPC)* sets out the procedure of the Magistrates' Courts.

Other relevant legislation includes:

- *Penal Code – Cap 26 (PC)*;
- *Traffic Act – Cap 131*;
- *Traffic Regulations – Cap 131*;
- *The Constitution*;
- *Dangerous Drugs Act (Cap 98)*;
- *Death and Fire Inquiries Act (Cap 9)*;
- *Firearms and Ammunition Act (Cap 80)*;
- *Juvenile Offenders Act (Cap 14)*;
- *Local Courts Act (Cap 19)*;
- *Motor Vehicles (Third Party Insurance) Act (Cap 83)*;
- *Probation of Offenders Act (Cap 28)*;
- *Customs and Excise Act (Cap 121)*.

## **Civil**

- *Affiliation, Separation and Maintenance Act (Cap 1)*;
- *Deportation Act (Cap 58)*;
- *Islanders Divorce Act (Cap 170)*;
- *Islanders Marriage Act (Cap 171)*;
- *Land and Titles Act (Cap 133)*;
- *Local Courts Act (Cap 19)*;
- *Workman’s Compensation Act (Cap 78)*.

## **3 Composition of the Court**

### **3.1 Magistrates**

#### **Appointment**

Any person appointed pursuant to the Constitution may be empowered by the Chief Justice by warrant as a Principal Magistrate, First Class Magistrate, or Second Class Magistrate.

Under *s118* of the *Constitution*, the Judicial and Legal Services Commission is responsible for the appointment of Magistrates, their removal and disciplinary control.

### **3.2 Clerk of the Court**

A Clerk is:

- appointed by the Chief Justice or a High Court Judge;
- attached to each Magistrate's Court;
- under the immediate control of the Magistrate of that Court.

The Magistrate can appoint a temporary replacement Clerk if the Clerk is absent.

The duties of the Clerk are:

- to attend to the sittings of the Court, as directed by the Magistrate;
- to create all the Court documents and give these to the Magistrate for his or her signature;
- to issue civil processes;
- to make copies of proceedings, when asked to by the Magistrate;
- to record the judgments, convictions and orders of the Court;
- to receive all monies paid to the Court, and keep good records;
- to administer oaths when asked to by the Magistrate (who should be present);
- to do whatever else the Magistrate asks: *ss13 and 33 MCA*.

### **3.3 Other Officers of the Court**

Other Officers of the Court are:

- the Sheriff; and
- the Bailiff.

The Chief Justice may appoint other Officers, for example Justices of the Peace.

*See ss14, 15, 16 and 17 MCA* for the appointment and duties of these officers.

In general the Chief Justice may by order invest a Magistrates Court with jurisdiction to try a particular class of offence which would otherwise be beyond its jurisdiction. A High Court Judge may do the same in respect of a particular case. However, the Magistrate may not impose a sentence which exceeds their sentencing jurisdiction: *s27(3) MCA*.

**May hear:**

Court	Maximum imprisonment and/or fine
Principal Magistrate's Court	14 yrs and/or fine
First and Second Class Magistrate's Court	1 yr and/or \$200

**Sentencing Jurisdiction**

Principal Magistrates

A Principal Magistrate has jurisdiction to impose a sentence of up to:

- 5 years imprisonment; or
- \$1,000 fine; or
- both: *s27(1) MCA; ss7 and 8 CPC*.

First and Second Class Magistrates

Both First and Second Class Magistrates have jurisdiction to impose a sentence of up to:

- one year imprisonment; or
- \$200; or
- both: *s27(2) MCA; ss7 and 8 CPC*.

Two or more offences arising out of the same facts

Any Magistrate may impose consecutive sentences for two or more offences arising out of the same facts, up to a total of twice their normal sentencing jurisdiction, that is:

- in the case of a Principal Magistrate, 10 years imprisonment, or \$2,000, or both; and
- in the case of First and Second Class Magistrates, two years imprisonment, or \$400, or both: *s27(4) MCA; s9(2) CPC*.

## 4 Jurisdiction

### 4.1 Territorial Jurisdiction

A **Principal Magistrate** has jurisdiction to hear cases within any district throughout Solomon Islands.

Subject to the terms of their appointment, **First and Second Class Magistrates** have jurisdiction to hear cases within the limits of the district within which their Court is situated: *ss4 and 8 MCA*.

This jurisdiction extends to any territorial waters within and around the district: *s4(3) MCA*.

Every offence will normally be inquired into and tried by the Court with jurisdiction over the district in which the offence was committed (partly or in whole), or where the accused was caught: *ss58, 59, 60, 61, 62 and 63 CPC; and s6 Penal Code – Cap 26*.

Actions of, or under the authority of, a Magistrate will not be void or impeachable solely because of an error as to territorial jurisdiction: *s31 MCA*.

### 4.2 Criminal Jurisdiction

#### Preliminary Inquiries

Any Magistrate may conduct a preliminary inquiry and commit any person for trial to the High Court: *s210 CPC*.

#### Defended Hearings

##### Principal Magistrates

A Principal Magistrate has jurisdiction to try summarily any criminal offence:

- which carries a maximum penalty not exceeding 14 years imprisonment, or a fine, or both; and
- which he or she has been expressly given jurisdiction to hear: *s27(1) MCA*.

##### First and Second Class Magistrates

Both First and Second Class Magistrates have jurisdiction to try summarily any criminal offence:

- which carries a maximum penalty not exceeding one year imprisonment, or a fine of \$200, or both;
- which they have been expressly given jurisdiction to hear;
- for which any penalty is expressly provided in respect of a conviction by a First or Second Class Magistrates' Court: *s27(2) MCA*.

**May sentence:**

<b>Court</b>	<b>Maximum imprisonment and/or fine</b>	<b>Maximum - 2 or more offences</b>
Principal Magistrate's Court	5 yrs and/or \$1,000	10 yrs and/or \$2,000
First and Second Class Magistrate's Court	1 yr and/or \$200	2 yrs and/or \$400

Maximum default periods

The term of imprisonment to be imposed in default of payment of a fine shall not exceed the maximum period provided below. *See s26 Penal Code – Cap 26.*

**Imprisonment in default of payment:**

<b>Amount of fine</b>	<b>Maximum period of imprisonment in default</b>
Not exceeding \$2	7 days
Exceeding \$2 but not exceeding \$4	14 days
Exceeding \$4 but not exceeding \$20	6 weeks
Exceeding \$20 but not exceeding \$80	2 months
Exceeding \$ 80 but not exceeding \$200	3 months
Exceeding \$200	6 months

### **4.3 Civil Jurisdiction**

A Magistrate's Court has civil jurisdiction (within its territorial limit):

- in all personal suits including counter-claims and set-offs arising in both tort and contract, where the value of the claim does not exceed \$2000 (Principal Magistrate), \$1000 (First Class Magistrate) or \$200 (Second Class Magistrate);

- in all suits between landlord and tenant for possession of any lands or houses where the annual rental value does not exceed \$2000 (Principal Magistrate), \$500 (First Class Magistrate) or \$200 (Second Class Magistrate);
- to appoint guardians and make custody orders for infants;
- to grant injunctions in proceedings instituted before it relating to property, torts or contract, where the value of the claim does not exceed \$2,000 (Principal Magistrate). \$1,000 (First Class Magistrate) or \$200 (Second Class Magistrate);
- in all claims for relief by way of a person with an interest in land or other property attached in execution of a decree made by Magistrate, where the value does not exceed \$2000 (Principal Magistrate), \$500 (First Class Magistrate) or \$200 (Second Class Magistrate);
- to enforce by attachment and sale or delivery any order or judgment of a Magistrate's Court, where the value of the claim does not exceed \$2,000 (Principal Magistrate). \$1,000 (First Class Magistrate) or \$200 (Second Class Magistrate);
- to commit to prison for a term not exceeding 6 weeks any person for default in payment of a debt ordered by a Court, where such person has had the means to pay but defaulted;
- to direct any debt due in pursuance of any Court order to be paid in instalments (and may vary or rescind such an order);
- to commit a child under 16 years old to the care of a fit person.

*See ss19, 20 and 29 MCA.*

### **Monetary Value**

<b>Court</b>	<b>Maximum value of claim in tort and contract</b>	<b>Maximum value of annual rent (landlord/tenant); or property (third party interest in land)</b>
Principal Magistrate's Court	\$2,000	\$2,000
First Class Magistrate's Court	\$1,000	\$500
Second Class Magistrate's Court	\$200	\$200

A plaintiff may abandon part of his or her claim in order to bring it within the jurisdiction of the relevant Magistrate's Court and, if so, the judgment will be in full discharge of all demands in respect of that application: *s20 MCA*.

However, a plaintiff may not split their claim into two or more different actions for the purpose of bringing them in a Magistrate's Court: *s21 MCA*.

The Chief Justice may authorise an increased civil jurisdiction: *s26 MCA*.

#### **4.4 No Jurisdiction**

A Magistrate's Court has no jurisdiction to hear any case:

- where the title to any right, any duty, or any office is in issue;
- where the validity of any will, or testamentary writing or bequest or limitation in a will is in issue;
- where the legitimacy of any person is in issue;
- where the validity or the dissolution of any marriage is in issue;
- where malicious prosecution, or defamation, or seduction or breach of promise of marriage is in issue: *s19(3) MCA*.

#### **4.5 General Powers**

All Magistrates have power to:

- issue writs of summons for the commencement of actions in the Magistrate's Court: *s30 MCA*;
- issue summonses and warrants for the arrest of witnesses, and penalise them for non-attendance or refusal to give evidence: *ss60, 61, 62, 63, 64 MCA*;
- arrest and commit to custody a person committing an offence in their presence: *s25 CPC*;
- require various people, including accused and witnesses, to enter into a recognisance, with or without sureties: *ss30, 31, 32, 33 CPC*;
- order allowances to be paid to witnesses: *s65 MCA*;
- direct payment of costs, expenses and compensation: *r3 Magistrates' Courts (Costs in Criminal Cases) Rules; ss153, 156 and 318 CPC*;
- order return or restitution of property: *ss157 and 158 CPC*;
- order inspection of property: *s67 MCA*;
- administer oaths and take solemn affirmations and declarations: *s30 MCA; s2 Oaths Act – Cap 23*;

- receive production of books and documents: *s30 MCA*; and
- make such decrees and orders and issue such process and exercise such judicial and administrative powers in relation to the administration of justice as shall from time to time prescribed by the Magistrates Court Act or any other Act or by rules of Court, or subject to any special order by the Chief Justice: *s30 MCA*.

Additionally, the Chief Justice may direct a Magistrate to draw up a list of available assessors and summon assessors for High Court trials: *ss241 and 245 CPC*.