CRIMINAL PROCEDURE

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Criminal Procedure Act 1972

TABLE OF AMENDMENTS

The Criminal Procedure Act 1972 No 21 was certified on 24 November 1972 and commenced on 27 November 1972 (GN No 321/1972; Gaz 51/1972).

Amending Legislation	Certified	Date of Commencement
Criminal Procedure (Compensation and Other Orders) Act 2006 No 8	11 August 2006	ss 3, 4: 11 August 2006
Statute Law Revision Act 2011 No 8	15 April 2011	Sch 1[49], [50]: 15 April 2011
Interpretation (Consequential Amendments) Act 2011 No 18	3 November 2011	Sch[6]: 3 November 2011
Criminal Procedure (Amendment) Act 2012 No 15	6 November 2012	Sch[1]: 6 November 2012
Criminal Procedure (Amendment) (No 2) Act 2012 No 25	21 December 2012	Sch[1], [2]: 21 December 2012
Criminal Procedure (Amendment) Act 2015 No 12	12 May 2015	Sch[1]: 12 May 2015
Criminal Procedure (Amendment) Act 2015 No 25	23 October 2015	ss 4, 5: 23 October 2015
Crimes Act 2016 No 18	12 May 2016	12 May 2016
Criminal Procedure (Amendment) Act 2016 No 20	12 May 2016	ss 4–25: 12 May 2016
Criminal Procedure (Amendment) No 2 Act 2016 No 27	9 June 2016	s 4: 9 June 2016
Bail Act 2018 No 18	10 May 2018	s 34: 15 May 2018
Criminal Procedure (Amendment) Act 2018 No 23	6 June 2018	ss 4–6: 6 June 2018
Criminal Procedure (Amendment) No 2 Act 2018 No 40	18 December 2018	ss 4–8: 18 December 2018
Criminal Procedure (Amendment) Act 2020 No 11	4 June 2020	ss 4–12: 4 June 2020
Criminal Procedure (Amendment) No 2 Act 2020 No 21	23 October 2020	23 October 2020
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Criminal Procedure (Amendment) Act 2021 No 10	1 June 2021	1 June 2021
Criminal Procedure (Amendment) Act 2022 No 5	8 June 2022	8 June 2022
Naoero Police Force Act 2025 No 38	19 September 2025	s 201: 19 September 2025

Amending Legislation	Certified	Date of Commencement
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

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An Act to make provision for the procedure to be followed in criminal causes and matters in the Supreme Court and the District Court.

Enacted by the Parliament of Naoero as follows:

[cl am Act 21 of 2026 s 5, opn 12 May 2026]

PART 1 — PRELIMINARY

[Pt 1 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

1 Short title and commencement

This Act may be cited as the *Criminal Procedure Act 1972* and came into effect on 27 November 1972.

2 Interpretation

In this Act:

'cognizable offence' has the meaning assigned to it by Section 10;

'complaint' means an allegation that some person known or unknown has committed, or is guilty of, an offence;

'criminal proceedings' includes a preliminary inquiry;

'Deputy Registrar' means the Deputy Registrar of the District Court;

'Director of Public Prosecutions' means the public officer appointed as such under the provisions of Section 45;

'imprisonment' includes night imprisonment;

'non-cognizable offence' means an offence which is not a cognizable offence;

'preliminary inquiry'

[def rep Act 20 of 2016 s 4, opn 12 May 2016]

'private prosecution' means a prosecution instituted and conducted by a person other than a public prosecutor;

'public prosecutor' includes the Director of Public Prosecutions and every person who is for the time being a public prosecutor by virtue of the provisions of Section 48;

'Registrar' means the Registrar of Courts;

'sentence' includes an order following conviction for which provision is made in Division 15.3 of the *Crimes Act 2016* or in *Motor Traffic Act 2014*; and

[def am Act 8 of 2011 s 12 and Sch 1[49], [50], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 50, opn 12 May 2016; Act 20 of 2016 s 4, opn 12 May 2016]

'summary trial' means a trial held by the District Court under Part 6.

[s 2 am Act 8 of 2011 s 12 and Sch 1[50], opn 15 Apr 2011; Act 21 of 2020 s 5, opn 23 Oct 2020]

3 Trial of offences

Subject to the provisions of any written law relating to children or young

persons, all offences under the *Crimes Act 2016* or under any other written law shall be inquired into, tried and otherwise dealt with in accordance with the provisions of this Act.

[s 3 am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 51, opn 12 May 2016]

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PART 2 — POWERS OF THE COURTS

[Pt 2 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

4 Power to try offences under the Crimes Act 2016

(1) Subject to the provisions of any written law relating to children or young persons, any offence under the *Crimes Act 2016* may be tried by the Supreme Court.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 51, opn 12 May 2016]

(2) Subject to the provisions of any written law relating to children or young persons and to the other provisions of this Act, any offence under the *Crimes Act 2016* may be tried by the District Court if it is punishable with imprisonment for not more than 10 years.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 51, opn 12 May 2016]

[s 4 am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011]

5 Power to try offences under other laws

(1) Where an offence is created by any written law other than the *Crimes Act 2016* and no provision is made for the court by which that offence may be tried, it may, subject to the provisions of any written law relating to children or young persons, be tried:

(a) by the Supreme Court; and

(b) by the District Court if it is punishable with imprisonment for not more than 10 years.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 51, opn 12 May 2016]

(2) Where in any adopted Act it is provided that an offence shall be tried by a court other than the Supreme Court or the District Court, the offence may, subject to the provisions of any written law relating to children or young persons, be tried:

(a) by the Supreme Court; and

(b) by the District Court if it is punishable with imprisonment for not more than 10 years.

[subs (2) am Act 18 of 2011 s 3 and Sch[6], opn 3 Nov 2011]

6 Sentences which the Supreme Court may pass

The Supreme Court may pass any sentence, and make any order, authorised by law for which provision is made in the *Crimes Act 2016* or in any other written law.

[s 6 am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 51, opn 12 May 2016]

7 Sentences which the District Court may pass

The District Court may pass any sentence and make any order authorised by law for which provision is made in the *Crimes Act 2016* or in any other written law except for:

(a) a sentence of:
  (i) death;
  (ii) a term of imprisonment exceeding 5 years in respect of any one offence; and
  (iii) a fine in an amount exceeding $50,000 in respect of any one offence; and
(b) any written law which expressly provides that the District Court has no jurisdiction or the Supreme Court has the original jurisdiction over the criminal cause or matter.

[s 7 subst Act 40 of 2018 s 4, opn 18 Dec 2018]

7A Sentence for habitual sexual offenders

A person who has, on at least two previous occasions been convicted of any sexual offence, whether of the same description of offence or not, shall be declared a habitual sexual offender and shall be sentenced to life imprisonment without eligibility for parole.

[s 7A insrt Act 12 of 2015 s 3 and Sch[1], opn 12 May 2015]

8 Combination of sentences

(1) Subject to the provisions of the *Crimes Act 2016* and of any other written law, the Supreme Court and the District Court may pass any lawful sentence combining any two or more of the sentences which such court is authorised by law to pass.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 51, opn 12 May 2016]

(2) In determining the extent of the jurisdiction of the District Court under Section 7, any term of imprisonment which is or may be, imposed in default of payment of a fine, costs or compensation shall be deemed not to be a sentence of imprisonment passed in respect of the offence for which the fine was imposed.

9 Separate sentence to be passed for each offence

(1) Where a person is convicted at one trial of 2 or more offences the court shall pass sentence separately in respect of each offence.

(2) Where sentences of imprisonment are passed on a person at one trial for 2 or more offences, the sentences shall run consecutively in such order as the court which passes them may direct, unless that court directs that they shall run concurrently.

(3) The maximum aggregate sentences of imprisonment and fine which may be imposed by the District Court on any one person at one trial are:
  (a) imprisonment for 10 years; and
  (b) fines totalling $75,000.

[subs (3) subst Act 40 of 2018 s 5, opn 18 Dec 2018]

(4) For the purpose of ascertaining whether or not there is a right of appeal, the aggregate of fines imposed on one person at one trial shall be deemed to be a single sentence.

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PART 2A — ENFORCEMENT

[Pt 2A insrt Act 18 of 2016 s 287 and Sch 2 clauses 11, 53, opn 12 May 2016]

9A Distress

(1) Where a court orders money to be paid by an accused person or by a prosecutor or complainant as fine, penalty, compensation, expenses or otherwise, the money may be levied on his or her personal property under warrant.

[Consequential amendment of s 118A insrt Act 40 of 2018 s 7, opn 18 Dec 2018]

(2) A person referred to in subsection (1) may pay or tender to the officer having the execution of the warrant the sum therein mentioned together with the amount of the expenses of the distress up to the time of payment or tender and thereupon the officer shall cease to execute the same.

(3) A warrant under this Section may be executed within the Republic and it shall authorise the distress and sale of any personal property belonging to such person.

(4) A person claiming to be entitled to or to have legal or equitable interest in the whole or part of any property seized in execution of a warrant issued under this Section may, at any time prior to the receipt by the court of the proceeds of sale of such property, give notice in writing to the court of his or her objection to the seizure of such property. Such notice shall set out shortly the nature of the claim which that person (hereinafter in this Section referred to as the "the objector") makes to the whole or part of the property seized and shall certify the value of the property claimed by him or her. Such value shall be deposed to upon affidavit which shall be filed with the notice.

(5) Upon receipt of a valid notice given under subsection (4), the court shall by any order in writing addressed to the officer having the execution of the warrant, direct a stay of the sale of property, or that part of it claimed by the objector.

(6) Upon the issue of an order under subsection (5), the court shall, by notice in writing, summon the objector to appear before it upon a date to be specified in the notice in order to establish his or her claim.

(7) A notice shall be issued by the court to the person whose property was, by the warrant issued under subsection (1), directed to be seized and, unless the property is to be applied to the payment of a fine, upon the person entitled to the proceeds of this sale of such property. Such notice shall specify the time and place fixed for the appearance on the objector and shall direct the person upon whom the notice is served to appear before the court at the same time and place if he or she wishes to be heard upon the hearing of the objection.

(8) Where, upon investigation of the claim, the court is satisfied that the property was not, when attached, in the possession of the person whose property was, by the warrant issued under subsection (1), directed to be seized or of some person in trust for him or her or that, being in his or her possession at such time, it was so in his or her possession not on his or her own account or as his or her own property but on account of or in trust for

some other person or partly on his or her own account and partly on account of some other person, the court shall make an order releasing the property, wholly or to such extent as it thinks fit.

(9) Where, upon the date fixed for his or her appearance, the objector fails to appear or if, upon investigation of the claim in accordance with the provisions of subsection (8), the court is of the opinion that the objector failed to establish his or her claim, it shall order the execution of the warrant to proceed and shall make such order as to costs as it deems fit.

(10) Nothing in this Section shall be deemed to deprive a person who has failed to comply with the requirements of subsection (4) of the right to take any other proceedings which, apart from the provisions of this Section, may lawfully be taken by a person claiming an interest in property seized under a warrant.

(11) No distress made under this Section shall be deemed unlawful, nor shall a person making the same to be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceedings relating thereto.

[s 9A insrt Act 18 of 2016 s 11, opn 12 May 2016]

9B Suspension of execution of imprisonment in default of fine

(1) Where a convicted person has been sentenced to a fine only and to imprisonment in default of payment of a fine and whether or not a warrant of distress has been issued under Section 9A, the court may make an order directing the fine to be paid on or before a specified date, not being more than 30 days from the date of the order, and in the event of this fine not being paid on or before that date may, subject to the other provisions of this Section, forthwith issue a warrant of committal. The court may, before making such order, require the convicted person to execute a bond, with or without sureties, conditioned for his or her appearance before the court on the specified date if the fine be not in the meantime paid. Upon the making of an order under this subsection the sentence of imprisonment shall be deemed to be suspended and the convicted person shall be released from custody.

(2) In any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith, the court may require the person ordered to make such payment to enter into a bond as prescribed in subsection (1) and, in default in doing so, may at once pass sentence of imprisonment as if the money had not been recovered.

(3) The court may in its discretion direct that any money to which this Section applied may be paid by instalments at such times and in such amounts as it may deem fit but so nevertheless that, in default of payment of any such instalment as aforesaid, the whole of the amount outstanding shall become and be immediately due and payable and all the provisions of this Act and the *Crimes Act 2016* applicable to a sentence of fine and to imprisonment in default of payment thereof shall apply to the same accordingly.

(4) A warrant of committal to prison in respect of the nonpayment of any sum of money by a person to whom time has been allowed for payment under the provisions of subsection (1) or who has been allowed to pay by

instalments under the provisions of subsection (3) shall not be issued unless the court shall first make as to his or her means in his or her presence: Provided that a court may issue such warrant of committal without any further inquiry as to means if it shall have made such inquiry in the presence of the convicted person at the time when the fine was imposed or at any subsequent time and the convicted person shall not before the expiration of the time for payment have notified the court of any change in his or her means or applied to the court for an extension of time to pay the fine.

(5) After making inquiry in accordance with the provisions of subsection (4), the court may, if it thinks fit, instead of issuing a warrant of commitment to prison, make an order extending the time allowed for payment or varying the amount of the instalments or the times at which the instalments were, by previous order of the court, directed to be paid, as the case may be.

(6) For the purpose of enabling inquiry to be made under the provisions of subsection (4), the court may issue a summons to the person ordered to pay the money to appear before it and, if he or she does not appear in obedience to the summons, may issue a warrant for his or her arrest or, without issuing a summons, issue in the first instance a warrant for his or her arrest.

[s 9B insrt Act 18 of 2016 s 11, opn 12 May 2016]

9C Committal in lieu of distress

(1) Where the officer having the execution of a warrant of distress reports that he or she could find no property or not sufficient property whereon to levy the money mentioned in the warrant with expenses, the court may by the same or by a subsequent warrant commit the person ordered to pay to prison for a time specified in the warrant, unless the money and all expenses of the distress, commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

(2) Where it appears to the court that distress and sale of property would be ruinous to the person ordered to pay the money or his or her family or by his or her confession or otherwise, that he or she has no property whereon the distress may be levied, or other sufficient reason appears to the court, the court may, if it thinks fit, instead of or after issuing a warrant of distress, commit him or her to prison for a time specified in the warrant, unless the money and all expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

(3) The period for which a person may be committed in prison in default or of in lieu of distress under this Section shall be:

(a) if the person has been sentenced to a term of imprisonment in default of payment of a fine, the period to which he or she was so sentenced; or

(b) in other cases such period as the court considers reasonable subject to the maximum laid down in Section 9A(2) relating to fine.

(4) A person committed for non-payment under this Section may pay the sum specified in the warrant, with the amount of expenses therein authorised, if any, to the person in whose custody he or she is and that person shall thereupon discharge him or her if he or she is in custody for no other matter.

(5) Where a person committed to prison for non-payment shall pay any sum in

part-satisfaction of the sum adjudged to be paid, the term of his or her imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed, as the sum so paid bears to the sum for which he or she is liable.

[s 9C insrt Act 18 of 2016 s 11, opn 12 May 2016]

9D Payment after issue of warrant but before committal

Where a warrant has been issued under the provisions of this Act for non-payment of a fine, any payment made after the issue of such warrant but before the person in respect of whom the warrant has been issued has been taken into custody, being a payment insufficient to satisfy the sum mentioned in the warrant together with the amount of expenses therein mentioned, shall be deemed to be appropriated primarily in satisfaction, or part-satisfaction, of such expenses.

[s 9D insrt Act 18 of 2016 s 11, opn 12 May 2016]

9E Calculation of term of sentence, cumulative sentences, escaped prisoners

When a person who is convicted of an offence is undergoing, or has been sentenced to undergo, for another offence, a sentence involving deprivation of liberty, the punishment to be inflicted upon him or her for the first-mentioned offence may be directed to take effect from the expiration of the deprivation of liberty for the last mentioned offence. Except as aforesaid, a sentence of imprisonment, with or without hard labour, upon a conviction on indictment takes effect from the first day of the sittings of the court at which, the offender is convicted, and a sentence of imprisonment, with or without hard labour, upon a summary conviction takes effect from the commencement of the offender's custody under the sentence. A person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty is liable upon recapture to undergo the punishment which he or she was undergoing at the time of his or her escape, for a term equal to that during which he or she was absent from prison, after the escape and before the expiration of the term of his or her original sentence, whether at the time of his or her recapture the term of that sentence has or has not expired.

[s 9E insrt Act 18 of 2016 s 11, opn 12 May 2016]

[The next page is 281,201]

[Pt 3 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

10 Arrest without warrant

(1) The powers of summary arrest conferred by this Section shall apply to offences for which the sentence is fixed by law or for which a person may under or by virtue of any written law be sentenced to imprisonment for a term of 5 years or more and to any other offence specified as a cognizable offence, or as an offence in respect which the offender may be arrested without warrant, by this Act or any other written law, and to attempts to commit any such offences, and in this Act "***cognizable offence***" means any such offence or attempt.

(2) A person may arrest without warrant anyone who is, or whom he or she, with reasonable cause, suspects to be, in the act of committing a cognizable offence.

(3) Where a cognizable offence has been committed, a person may arrest without warrant anyone who is, or whom he or she, with reasonable cause, suspects to be, guilty of the offence.

(4) Where a police officer, with reasonable cause, suspects that a cognizable offence has been committed, he or she may arrest without warrant anyone whom he or she, with reasonable cause, suspects to be guilty of the offence.

(5) A police officer may arrest without warrant a person who is, or whom he or she, with reasonable cause, suspects to be, about to commit a cognizable offence.

(6) For the purpose of arresting a person under any power conferred by this Section a police officer may enter, if need be by force, and search any place where that person is or where the police officer, with reasonable cause, suspects him or her to be.

(7) This Section shall not affect the operation of any written law restricting the institution of proceedings for an offence nor prejudice any power of arrest conferred by law apart from this Section.

11 Mode of making arrest

(1) In making an arrest the person making it shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2) A person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting, or assisting in, the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

(3) Subsection (2) shall replace the rules of the common law on the question when force used for a purpose mentioned in that subsection is justified by that purpose.

12 Entry to arrest person under warrant

For the purpose of arresting a person under a warrant of arrest, a person to

whom such warrant is addressed may enter, if need be by force, and search any place where that person is or where he or she, with reasonable cause, suspects him or her to be.

13 Power to break out of house, etc, for purpose of liberation

A person authorised to make an arrest may break out of any house or place in order to liberate himself or herself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

14 No unnecessary restraint

No person arrested shall be subjected to more restraint than is reasonable to prevent his or her escape.

15 Search of arrested persons

(1) Where a person is arrested by a police officer or a private person, the police officer making the arrest or to whom the private person makes over the person arrested may search such person and any articles in his or her possession or under his or her control and place in safe custody all articles found in his or her possession or under his or her control and any article found upon him or her, except necessary wearing apparel:

Provided that, whenever the person arrested can be legally admitted to bail and bail is furnished, such person shall not be searched unless there are reasonable grounds for believing that he or she has about his or her person any:

(a) stolen articles;
(b) instruments of violence;
(c) tools connected with the kind of offence which he or she is alleged to have committed; or
(d) other articles which may furnish evidence against him or her in regard to the offence which he or she is alleged to have committed.

(2) The right to search an arrested person does not include the right to examine his or her private person.

(3) Where any property has been taken from a person under this Section and the person is not charged before any court but is released on the ground that there is no sufficient reason to believe that he or she has committed any offence, any property so taken from him or her shall be restored to him or her.

(4) Whenever it is necessary to cause a woman or girl to be searched, the search shall be made only by another woman with strict regard to decency.

15A Examination of person in custody

(1) This Section applies if a person is in lawful custody charged with an offence and there are reasonable grounds for believing that an examination of the private person of the person will provide evidence relevant to the commission of the offence.

(2) It is lawful for a legally qualified health practitioner, acting at the request of a police officer, and for anyone assisting under the health practitioner's direction:

(a) to carry out an examination of the private person of the person that is

reasonably necessary for the purpose of obtaining evidence relevant to the commission of the offence; and

(b) to use the force that is reasonable and necessary for that purpose.

[s 15A insrt Act 18 of 2016 s 287 and Sch 2 clause 52, opn 12 May 2016]

16 Power of police officer to detain and search persons, vehicles, vessels and aircraft in certain circumstances

(1) Any police officer who has reason to suspect that any article stolen or unlawfully obtained, or any article in respect of which a criminal offence has been, or is being or is about to be, committed, is being conveyed, whether on a person or in any vehicle, package or otherwise, or is concealed or carried on a person in a public place, or is concealed or contained in any vehicle or package in a public place, for the purpose of being conveyed, may without warrant detain and search any such person, vehicle or package and may take possession of and detain any such article which he or she may reasonably suspect to have been stolen or unlawfully obtained or in respect of which he or she may reasonably suspect that a criminal offence has been, is being or is about to be, committed, together with the package, if any, containing it and may also detain the person conveying, concealing or carrying such article:

Provided that this subsection shall not extend to the case of postal matter in transit by post except where such postal matter has been, or is suspected of having been, dishonestly appropriated during such transit.

(2) Any police officer of or above the rank of sergeant may, if he or she has reason to suspect that there is on board any vessel or aircraft any property stolen or unlawfully obtained, enter without warrant, and with or without assistants, on board such vessel or aircraft and may remain on board for such reasonable time as he or she may deem expedient and may search with or without assistants any and every part of such vessel or aircraft and, after demand and refusal of keys, may break open any receptacle and, upon discovery of any property which he or she may reasonably suspect to have been stolen or unlawfully obtained, may take possession of and detain such property and may also detain a person in whose possession it is found. Such police officer may pursue and detain a person who is in the act of conveying any such property away from any such vessel or aircraft or who has landed with the property so conveyed away or found in his or her possession.

(3) Any police officer may, if he or she has reason to suspect that an offence has been committed, seize any articles which may be in a public place and which may furnish evidence in regard to the commission of that offence:

Provided that no articles may be seized under the provisions of this subsection unless there is a possibility of such articles being removed or dealt with in such a way as to prevent their being available as evidence.

(4) A person detained under this Section shall be dealt with under the provisions of the *Bail Act 2018*.

17 Power to seize offensive weapons

Notwithstanding the provisions of Section 15, the police officer or other person making any arrest may take from the person arrested any instruments of violence which he or she has about his or her person and shall deliver all articles

so taken to the magistrate or police officer before whom the police officer or other person making the arrest is required by law to bring or send the person arrested.

17A Explosives

Where a thing seized or taken under this Act is an explosive substance found in a vessel or vehicle, the person acting in the execution of the warrant may for 24 hours after seizure, and for such longer time as is necessary for the purpose of removal to a safe place of deposit, use the vessel or the vehicle, with the tackle and furniture thereof, or the beasts, and accoutrements belonging thereto, as the case may be, paying afterwards to the owner of the vessel or vehicle a sufficient recompense for its use, which is to be assessed by the justice or justices before whom the suspected offender is brought, and, in case of nonpayment immediately after such assessment, may be recovered before 2 justices in a summary way.

[s 17A insrt Act 18 of 2016 s 287 and Sch 2 clause 48, opn 12 May 2016]

18 Refusal to give name and residence

(1) Where a person who in the presence of a police officer has committed or has been accused of committing a non-cognizable offence refuses on the demand of such police officer to give his or her name and residence or gives a name and residence which such police officer, with reasonable cause, suspects to be false, he or she may be arrested by that police officer, or any other police officer, in order that his or her name and residence may be ascertained or verified.

(2) When the true name and residence of a person arrested under the provisions of subsection (1) have been ascertained he or she shall be released on his or her executing a recognizance, with or without sureties, for a reasonable amount to attend before the District Court at a time and place to be named in the recognizance:

Provided that if such person is not normally resident in the Republic the recognizance shall be secured by a surety or sureties normally resident in Naoero or by the deposit of a sum of money sufficient to satisfy any penalty which may be payable upon forfeiture of the recognizance.

[subs (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) Where the true name and residence of a person arrested under the provisions of this Section have not been ascertained within 24 hours from the time of arrest, or if he or she fails to execute the recognizance or, if so required, to furnish sufficient sureties or to deposit the proper sum of money, he or she shall forthwith be brought before a magistrate.

19 Disposal of person arrested by a police officer

A police officer making an arrest without a warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, bring or send the person arrested before a magistrate or before a police officer of or above the rank of sergeant.

20 Disposal of person arrested by private person

(1) A private person arresting any other person without a warrant shall without

unnecessary delay make over the person so arrested to a police officer, and in the absence of a police officer shall take such person to the police station.

(2) Where there is reason to believe that such person has committed any cognizable offence, a police officer shall re-arrest him or her.

(3) Where there is reason to believe that he or she has committed a non-cognizable offence and he or she refuses on the demand of a police officer to give his or her name and residence or gives a name or residence which such police officer, with reasonable cause, suspects to be false, he or she shall be dealt with under the provisions of Section 18. If there is no sufficient reason to believe that he or she has committed any offence, he or she shall be at once released.

21 Detention of persons arrested without warrant

[s 21 rep Act 18 of 2018 s 34, opn 15 May 2018]

21A Procedure for extension of detention of person held in custody under Article 5 of the Constitution

(1) Where a person has been arrested or detained upon reasonable suspicion of having committed or being about to commit an offence and is required to be further held in custody for more than 24 hours in connection with that offence, the prosecution shall:
   (a) make an application to a Judge, Resident Magistrate or any other judicial officer for an order that the person be further held in custody in accordance with subsection (3); and
   (b) bring the person before a Judge, Resident Magistrate or any other judicial officer within a period of 24 hours after his or her arrest or detention.

(2) An application under subsection (1) shall be:
   (a) made by a notice of motion; and
   (b) supported by an affidavit specifying the reasons for holding the person further in custody which may, where appropriate, include the following:
      (i) the general nature of complaint or offence for which the person has been arrested or detained;
      (ii) the day, date and time the person was arrested or detained;
      (iii) the general nature or process of investigation being or likely to be conducted, without causing prejudice to the nature, process or integrity of the investigation by the police;
      (iv) the safety or protection of a complainant, person arrested or detained or any other person who may be directly or indirectly related to the offence or nature or process of investigation; and
      (v) interference with the nature and process of investigation, complainant or any other person who may be directly or indirectly related to the offence or nature or process of the investigation.

(3) In considering an application under subsection (1), the Judge, Resident Magistrate or any other judicial officer shall grant the order sought, unless the Judge, Resident Magistrate or any other judicial officer is of the view that further holding of a person in custody is not necessary.

(4) Where the Judge, Resident Magistrate or any other judicial officer grants an order under subsection (3) to further hold a person in custody:
(a) such order shall be for a period not exceeding 3 working days; and
(b) the Judge, Resident Magistrate or any other judicial officer shall adjourn the application, on which day the person shall be brought before him or her or any other Judge, Resident Magistrate or any other judicial officer.

(5) Where the prosecution seeks a further order to extend the period of custody in an order granted under subsection (3), the prosecution shall file an affidavit stating the reasons for such extension before the person is brought before the Judge, Resident Magistrate or any other judicial officer under subsection (4)(b).

(6) A Judge, Resident Magistrate or any other judicial officer in considering an application under subsection (5) may extend the period of custody for not more than 2 working days.

(7) Where a person who is further held in custody under this Section is charged with an offence, any further orders to hold the person shall be determined under the provisions of the *Bail Act 2018*.

(8) For the purposes of an application under this Section, the prosecution shall make an application to the District Court and only in the absence of the Resident Magistrate or the Registrar, the application shall be made to a Judge.

(9) For the purposes of this Section, the Registrar is a judicial officer who shall have the jurisdiction and power vested to a Judge or Resident Magistrate under Article 5(3) of the *Constitution*.

(10) The Cabinet may, by notice in the Gazette, designate any place to hold an arrested or detained person.

[s 21A insrt Act 5 of 2022 s 4, opn 8 June 2022]

22 Police officer to report certain arrests

Where a person is released under the provisions of the *Bail Act 2018*, the police officer who authorised such release shall report the same to the Commissioner of Police as soon as it is reasonably possible to do so.

23 Offence committed in magistrate's presence

Where any cognizable offence is committed in the presence of a magistrate, he or she may himself or herself arrest, or authorise a person to arrest, the offender and may thereupon, subject to the provisions of this Act as to bail, commit the offender to custody.

24 Arrest by magistrate

A magistrate may at any time arrest, or authorise the arrest in his or her presence of, a person for whose arrest he or she is competent at the time and in the circumstances to issue a warrant.

25 Recapture of person escaping

(1) Where a person in lawful custody escapes or is rescued, the person from whose custody he or she escapes or is rescued may immediately pursue and arrest him or her.

(2) The provisions of Sections 10, 11, 12 and 13 shall apply to arrests under this Section.

26 Assistance to magistrate or police officer

Every person is bound to assist a magistrate or police officer reasonably demanding his or her aid:

(a) in the arrest or preventing the escape of any other person whom such magistrate or police officer is authorised to arrest; and

(b) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any property of the Republic, the Cabinet or RONPHOS.

[am Act 3 of 2005, opn 1 July 2005]

27 Security for keeping the peace

(1) Where a magistrate is informed on oath that any person is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace, the magistrate may, in the manner hereinafter provided, require such person to show cause to the District Court why he should not be ordered to enter into a recognizance, with or without sureties, for a reasonable amount for keeping the peace for such period not exceeding one year, as the District Court thinks fit.

(2) In every case of apprehended violence by any person to the person of another, or of his or her spouse or child, or of apprehended injury to his or her property, the Resident Magistrate, may on the complaint of the person apprehending such violence or injury, or his or her employer, require such person to show cause to the District Court why he or she should not be ordered:

(a) to enter into a recognizance, with or without sureties, for a reasonable amount for keeping the peace for such period, not exceeding one year, as the District Court thinks fit;

(b) not to communicate with a person or to stay away from a person or place or not approach closer than a particular distance from a person or place;

(c) both (a) and (b);

(d) in respect of any bodily injury, to make compensation to that person by means of the payment of a specified amount of money not exceeding $10,000; or

(e) in respect of any injury to property, to make compensation to that person by means of the payment of a specified amount or an amount to be assessed by a person appointed by the court not exceeding the reasonable cost of repair or replacement of the property.

[subs (2) insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

(3) An order under subsection (1) may be made in addition to any other penalty imposed on, or order made in relation to, the offender.

[subs (3) insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

(4) Where the court makes an order under subsection (1):

(a) the court may direct that the amount be paid by specified instalments; and

(b) the amount to be paid pursuant to the order, or each instalment as it falls due, as the case requires, is a debt due to the person in whose favour the order is made.

[subs (4) insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

(5) Where an order is made under subsection (1) and the amount ordered to be paid is not paid on the due date, the person in whose favour the order is made may apply for and is entitled to an order attaching property under Part 11 of the *Civil Procedure Act 1972* for recovery of the full amount to be paid whether or not an order for instalments had been made.

[subs (5) insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

(6) Notwithstanding anything to the contrary in the *Civil Procedure Act 1972*, an order attaching property made under subsection (4) can be made against any real property in which an offender has any interest or any building in which an offender has an interest and which is constructed upon land owned by a person or persons other than the offender.

[subs (6) insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

(7) Where a conviction referred to in subsection (2) is subject to appeal, the court may in making an order under subsection (2) further order that pending the presentation of an appeal or of the determination of an appeal the payment of the amount is to be suspended but that the offender not dispose of any property without the approval of the court and, where the amount exceeds $5,000, provide surety to the value of the amount ordered to be paid.

[subs (7) insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

(8) Nothing in this Section shall be construed as removing or affecting a cause of action which a person may have to recover-damages for bodily injury or injury to property suffered by the person, but in proceedings in relation to that cause of action the court shall have regard to an amount paid pursuant to an order made under this Section.

[subs (8) insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

[s 27 am Act 8 of 2006 s 3, opn 11 Aug 2006]

28 Order to be made

Where a magistrate acting under Section 27 deems it necessary to require a person to show cause thereunder, he or she shall make an order in writing setting forth:

(a) the substance of the information received;
(b) the amount of the recognizance; and
(c) the number, character and class of sureties, if any, required; or
(d) particulars as to the person or place and the distances closer than which the offender may not approach.

[s 28 am Act 8 of 2006 s 3, opn 11 Aug 2006]

29 Procedure in respect of person present in court

Where the person in respect of whom any order is made under Section 28 is present in court, the order shall be read over and explained to him or her.

30 Summons or warrant in case of person not present in court

Where the person in respect of whom any order is made under Section 28 is not present in court, the magistrate shall issue a summons requiring him or her to

attend or, where such person is in custody, a warrant directing the officer in whose custody he or she is to bring him or her before the District Court:

Provided that, whenever it appears to the magistrate, upon the report of a police officer or upon other information, the substance of which report or information shall be recorded in writing by the magistrate, that there is reason to fear the commission of a breach of the peace and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of that person, the magistrate may at any time issue a warrant for his or her arrest.

31 Copy of order under Section 28 to accompany summons or warrant

Every summons or warrant issued under Section 30 shall be accompanied by a copy of the order made under Section 28, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under it.

32 Power to dispense with personal attendance

The District Court may, if it sees sufficient cause, dispense with the personal attendance of a person called upon to show cause under Section 27(l) or (2), and permit him or her to appear by a legal practitioner.

[s 32 am Act 8 of 2006 s 3, opn 11 Aug 2006]

33 Inquiry as to truth of information

(1) Where an order under Section 28 has been read or explained under Section 29 to a person present in court, or where a person attends or is brought before the District Court in compliance with or in execution of a summons or warrant issued under Section 30, that court shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

(2) The inquiry shall be made, as nearly as may be practicable, in the manner prescribed by this Act for conducting trials and recording evidence in trials before the District Court.

(3) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries, as the court thinks just.

34 Order to give security

(1) Where upon an inquiry under Section 33 it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should enter into a recognizance, with or without sureties, the District Court shall make an order accordingly:

Provided that:

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, that specified in the order made under Section 28; and

(b) the amount of every recognizance shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) A person ordered to give security for good behaviour under this Section

may appeal to the Supreme Court, and the provisions of the *Supreme Court Act 2018* shall apply *mutatis mutandis* to every such appeal.

34A Apprehended violence order

(1) Where upon an inquiry under Section 33 it is proved that it is necessary for protecting a person or property from apprehended violence, that the person in respect of whom the inquiry is made should enter into a recognizance, with or without sureties, or be ordered not to communicate with a person or to stay away from a person or place or not approach closer than a particular distance from a person or place, or both, the District Court shall make an order accordingly.

(2) An order under subsection (1) is called an apprehended violence order.

[s 34A insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

35 Discharge of person informed against

Where on an inquiry under Section 33, it is not proved that it is necessary for keeping the peace or maintaining good behaviour or making provision against apprehended violence, as the case may be, that the person in respect of whom the inquiry is made should enter into a recognizance or an apprehended violence order, the District Court shall make an entry on the record to that effect and, if such person is in custody only for the purposes of the inquiry, shall release him or her, or, if such person is not in custody, shall discharge him or her.

[s 35 am Act 8 of 2006 s 3, opn 11 Aug 2006]

36 Commencement of period for which security is required

(1) Where a person in respect of whom an order requiring security is made under Section 28 or Section 34 is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the court, for sufficient reason, fixes a later date.

(3) The recognizance to be entered into shall bind the person to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the aiding, abetting, counselling or procuring the commission of any offence punishable with imprisonment, shall be a breach of the recognizance.

37 Power to reject sureties

The District Court may refuse to accept any surety offered under any of the preceding Sections on the ground that, for reasons to be recorded by the court, such surety is an unfit person.

38 Procedure on failure of person to give security

(1) Where a person ordered to give security under the provisions of Section 34 does not give such security on or before the date on which the period for which such security is to be given commences, he or she shall, except in the case mentioned in subsection (2), be committed to prison or, if he or she is already in prison, be detained in prison until such period expires or until within such period he or she gives the security to the District Court.

(2) Where a person has been ordered by the District Court to give security for a period exceeding one year, the District Court shall, if he or she does not give that security, issue a warrant directing him or her to be detained in prison pending the order of the Supreme Court, and the proceedings shall be laid as soon as conveniently may be before that court.

(3) The Supreme Court, after examining the record of the proceedings in the District Court and requiring from the District Court any further information or evidence which it thinks necessary, may make such order in the case as it thinks fit.

(4) The period, if any, for which a person is imprisoned for failure to give security shall not exceed 2 years.

(5) Where the security is tendered to the officer in charge of the prison, he or she shall forthwith refer the matter to the court which made the order and shall await the order of that court.

38A Failure to comply with apprehended violence order

A person who fails to comply with an apprehended violence order in respect of failing to give security is to be dealt with in accordance with Section 38 and in respect of an order not to communicate with or to stay away from a person or place, commits an offence for which the penalty is imprisonment for 2 years.

[s 38A insrt Act 8 of 2006 s 3, opn 11 Aug 2006]

39 Power to release persons imprisoned for failure to give security

Where the Resident Magistrate is of the opinion that a person imprisoned for failing to give security may be released without hazard to the community, he or she shall make an immediate report of the case for the order of a Judge who may, if he or she thinks fit, order such person to be discharged.

40 Power of Supreme Court to cancel recognizance

The Supreme Court or a Judge may at any time, for sufficient reasons to be recorded in writing, cancel any recognizance for keeping the peace or for good behaviour executed under any of the preceding Sections by order of the District Court.

41 Discharge of sureties

(1) A surety to any recognizance entered into under any of the preceding Sections, may at any time apply to the District Court to cancel the recognizance.

(2) On such application being made the District Court shall issue a summons or warrant, as it thinks fit, requiring the person for whom that surety is bound to attend or to be brought before it.

(3) Where that person attends or is brought before the District Court, the court shall cancel the recognizance and shall order him or her to give, for the unexpired portion of the term of the recognizance, fresh security of the same description as the original security. Every such order shall for the purposes of Sections 36, 37, 38 and 39 be deemed to be an order made under Section 34.

42 Power to arrest and produce before court person attempting to kill himself or herself

A police officer may, when he or she has reason to believe that a person has recently attempted, is attempting or is about to attempt to kill himself or herself, arrest such person and produce him or her before the District Court, which may make an order in respect of such person requiring him or her to be under the supervision of a probation officer for such period as the court may specify in the order:

Provided that nothing in this Section shall preclude any such person being dealt with under the provisions of the *Mental Health Act 1963*.

[Consequential amendment of Act 38 of 2020 s 3, opn 3 Dec 2020]

[s 42 am Act 8 of 2011 s 12 and Sch 1[50], opn 15 Apr 2011]]

42A Prevention of unlawful assembly

(1) It is lawful for a person who witnesses an unlawful assembly:
   (a) to interfere to prevent the continuance or renewal of it, using force that is reasonably necessary for that purpose and proportionate to the danger from the assembly; and
   (b) to detain a person who is committing or about to join in or renew the unlawful assembly for the period that is reasonably necessary to give the person into the custody of a police officer.

(2) It is lawful for a police officer who witnesses an unlawful assembly, and for anyone lawfully assisting the police officer, to arrest a person the officer:
   (a) finds taking part in the unlawful assembly; or
   (b) believes on reasonable grounds to be about to join in or renew the unlawful assembly.

(3) It is lawful for a police officer to receive and detain in custody a person given into the officer's custody as having taken part in an unlawful assembly.

[s 42A insrt Act 18 of 2016 s 287 and Sch 2 clause 54, opn 12 May 2016]

42B Suppression of riot

It is lawful for a person to suppress a riot, using force that is reasonably necessary for that purpose and proportionate to the danger from the riot.

[s 42B insrt Act 18 of 2016 s 287 and Sch 2 clause 54, opn 12 May 2016]

42C Suppression of riot by magistrates and police officers

It is lawful for a magistrate to use or order to be used, and for a police officer to use force, the magistrate or police officer believes on reasonable grounds to be necessary to suppress a riot and proportionate to the danger from the riot.

[s 42C insrt Act 18 of 2016 s 287 and Sch 2 clause 54, opn 12 May 2016]

42D Suppression of riot by person acting under lawful orders

(1) It is lawful for a person acting in good faith under orders, not manifestly unlawful, given by a magistrate for the suppression of a riot, to use force the person believes on reasonable grounds to be necessary for carrying out the orders.

(2) The question whether an order is or is not manifestly unlawful is a question of law.

[s 42D insrt Act 18 of 2016 s 287 and Sch 2 clause 54, opn 12 May 2016]

[The next page is 281,401]

[Pt 4 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

43 General authority of District Court

The District Court has authority to cause to be brought before it a person who is in the Republic and is charged with an offence committed within, or which may be inquired into or tried within, the Republic and to deal with him or her according to its jurisdiction.

44 Court to be open

The place in which any court is held for the purpose of inquiring into or trying any offence shall be deemed an open court to which the public generally may have access, so far as it can conveniently contain them:

Provided that the presiding Judge or magistrate may, if he or she thinks fit, order before or at any stage of the inquiry into or trial of any particular case that the public generally or any particular person shall not have access to or be or remain in the room or building used by the court.

45 Appointment of Director of Public Prosecutions

The President shall appoint a public officer to be the Director of Public Prosecutions and such Director of Public Prosecutions shall be responsible for the representation of the Republic in criminal proceedings before the court he or she shall be *ex officio* a public prosecutor.

46 Power of Director of Public Prosecutions to enter nolle prosequi

(1) In any criminal cause or matter and at any stage thereof before verdict or judgment, including the period between the committal of an accused person for trial by the Supreme Court and the filing of an information in that court, the Director of Public Prosecutions may enter a *nolle prosequi*, either by stating in court or by informing the court in writing that the Republic intends that the proceedings shall not continue, and thereupon the accused shall be at once discharged in respect of the charge for which the *nolle prosequi* is entered, and if he or she has been committed to prison shall be released, or if on bail his or her recognizances shall be discharged; but such discharge of an accused person shall not operate as a bar to any subsequent proceedings against him or her on account of the same facts.

(2) Where the accused is not before the court when a *nolle prosequi* is entered:

(a) if he or she is detained in the prison, the Registrar or the Deputy Registrar, as the case may be, shall forthwith send to the Chief Correctional Officer a notice in writing of its entry and the Chief Correctional Officer shall, unless the accused is lawfully detained on another warrant, release him or her from custody forthwith; and

(b) if he or she is not detained in the prison, the Registrar or the Deputy Registrar, as the case may be, shall send a notice in writing of its entry to him or her and to the sureties, if any, of any recognizance into which he or she may have been required to enter.

47 Delegation of powers by Director of Public Prosecutions

The Director of Public Prosecutions may by an instrument in writing authorise that all or any of the powers and rights vested in, or duties imposed upon, him or her by Sections 46, 180, 181, 182 and 185, may be exercised on his or her behalf by a public servant of the Department of Justice, and the exercise of those powers and rights and the performance of those duties by that officer in the name of the Director shall then operate as if they had been exercised or performed by the Director of Public Prosecutions:

Provided that the Director of Public Prosecutions may in writing revoke any authorisation made by him or her under this Section; and

Provided further that the Director of Public Prosecutions shall not cease to be able to exercise any of his or her powers by reason only of his or her having made an authorisation in respect of them under this Section.

48 Public prosecutors and prosecution by police officers

(1) The Director of Public Prosecutions may appoint in writing any public officer of the Department of Justice who is qualified to be admitted to practice as a barrister and solicitor to be a public prosecutor generally or for any specified case.

(2) The Director of Public Prosecutions may appoint in writing any legal practitioner to be a public prosecutor for any specified case.

(3) Any police officer may appear and conduct any prosecution in the District Court which has been instituted by himself or herself or any other police officer or public officer.

(4) Every public prosecutor and every police officer conducting a prosecution shall be subject to the express directions of the Director of Public Prosecutions.

49 Powers of public prosecutors

A public prosecutor may appear and plead before any court in which any case of which he or she has charge is under inquiry, trial or appeal and, if any private person instructs a legal practitioner to prosecute in any such case, the public prosecutor may conduct the prosecution, and the legal practitioner so instructed shall act therein under his or her directions.

50 Conduct of prosecution

A person, other than a public prosecutor, conducting the prosecution in any criminal proceedings may do so personally or by a legal practitioner.

50A Office of the Public Legal Defender

(1) There shall be an Office of the Public Legal Defender.

(2) The President may appoint a barrister and solicitor to hold the position of Director of the Office of the Public Legal Defender.

[s 50A insrt Act 20 of 2016 s 6, opn 12 May 2016]

50B Other staff of the Office of the Public Legal Defender

There may be other employees appointed to the Office of the Public Legal

Defender on such terms and conditions approved by the Chief Secretary after consultations with the Secretary for Justice.

[s 50B insrt Act 20 of 2016 s 7, opn 12 May 2016]

50C Functions of the Public Legal Defender

(1) The functions of the Public Legal Defender are to provide legal aid, advice and assistance to persons:
   (a) in need who may be charged or have been charged with a criminal offence;
   (b) who need such aid, advice and assistance in respect of legal proceedings under any other Act; or
   (c) where the Naoero Court of Appeal, Supreme Court or District Court request or is required under a written law to assign a legal representative to represent a person in a court proceeding where such person does not have sufficient means to retain the services of a legal representative.

[subs (1) am Act 23 of 2018 s 4, opn 6 June 2018; Act 21 of 2026 s 5, opn 12 May 2026]

(2) The Director may, after consultation with the Secretary for Justice, establish guidelines setting out eligibility criteria for receiving legal aid, advice or assistance.

[s 50C insrt Act 20 of 2016 s 8, opn 12 May 2016]

50D Assignment of legal representative

For the purposes of Section 50C(1)(c):

(a) the Director of the Office of the Public Legal Defender in so far as practicable shall provide legal representation; and

(b) subject to Section 50E, where the Director of the Office of the Public Legal Defender is unable to provide legal representation or has a conflict of interest, he or she shall engage a legal representative duly admitted to practice law in the Republic to do so where the interest of justice so require.

[s 50D insrt Act 23 of 2018 s 5, opn 6 June 2018]

50E Director of the Office of the Public Legal Defender is unable to provide legal representation

(1) Where the Director of the Office of the Public Legal Defender is required to engage a legal representative under Section 50D(b), he or she shall pay the following professional fees:
   (a) appearances for call overs or mentions at the rate of $50 for each such appearance; and
   (b) appearances for trial at a rate not exceeding $300 per day.

(2) The maximum legal fee and disbursements to be charged for each case inclusive of mentions, call overs and trial shall not exceed $3,000.

(3) Where the Director of the Office of the Public Legal Defender is required to engage a legal representative under this Section for the purposes of an appeal either in the Supreme Court or Naoero Court of Appeal, the legal fees and disbursements for such appeal shall not exceed $3,000.

[subs (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) The legal fees and disbursements prescribed by this Section shall apply to an assignment of legal representative by the court or any other authority

under a written law or inherent jurisdiction, where the Republic may be required to pay the legal fees and disbursements.

[s 50E insrt Act 23 of 2018 s 6, opn 6 June 2018]

51 Complaint and charge

(1) Proceedings may be instituted either by the making of a complaint to a magistrate or by the bringing before the District Court of a person who has been arrested without warrant.

(2) A person who believes from a reasonable and probable cause that an offence has been committed by a person may make a complaint thereof to a magistrate.

(3) A complaint may be made orally or in writing but, if made orally, shall be reduced to writing by the magistrate; and, in either case, it shall be signed by the complainant and the magistrate:

Provided that, where proceedings are instituted by a police officer or any other public officer acting in the course of his or her duty, a formal charge duly signed by that officer may be presented to the magistrate and shall, for the purposes of this Act, be deemed to be a complaint.

(4) The magistrate, upon receiving any such complaint, shall, unless the complaint has been laid in the form of a formal charge under subsection (3), draw up, or cause to be drawn up, and sign a formal charge containing a statement of the offence with which the accused is charged.

(5) Where an accused person who has been arrested without a warrant is brought before the District Court, a formal charge, containing a statement of the offence with which the accused is charged, shall be signed and presented by a police officer.

52 Issue of summons or warrant

(1) Where a magistrate has signed a charge in accordance with the provisions of Section 51 and the accused person is not in lawful custody, the magistrate may in his or her discretion, but subject to the provisions of Section 62, issue either a summons or a warrant to compel the attendance of the accused person before the District Court for that court to inquire into or try the offence alleged to have been committed:

Provided that a warrant shall not be issued in the first instance unless the complaint has been made, or the charge presented, upon oath either by the complainant or by a witness.

(2) The validity of any proceedings taken in pursuance of a complaint or charge shall not be affected either by any defect in the complaint or charge or by the fact that a summons or warrant was issued without complaint or charge.

(3) Any summons or warrant under this Section may be issued on a Sunday or public holiday.

53 Notice to attend court

(1) Notwithstanding the other requirements of this Act, it shall be lawful for any police officer to institute proceedings by, and to serve on a person who is reasonably suspected of having committed an offence, a notice in the

prescribed form requiring that person to attend court in answer to the charge stated therein at such place and on such date and time, not being less than 7 days from the date of such service, as shown on such notice or, in accordance with Section 61, to attend by a legal practitioner or to enter a written plea of guilty.

[subs (1) am Act 15 of 2012 s 3 and Sch[1] opn 6 Nov 2012]

(2) A notice served in accordance with the provisions of subsection (1) shall for all purposes be regarded as a summons issued under the provisions of this Act and, in the event of a person upon whom such a notice has been served failing to comply with the requirements of the notice, a warrant for the arrest of that person may, subject to the provisions of Section 62, be issued notwithstanding that no complaint has been made on oath.

(3) A copy of every notice issued under this Section shall be signed by the police officer issuing it and shall be lodged with the Deputy Registrar within 7 days of service of the notice and shall be deemed to be a charge presented by that police officer.

[subs (3) am Act 15 of 2012 s 3 and Sch[1] opn 6 Nov 2012]

(4) [subs (4) rep Act 25 of 2012 s 3 and Sch[1] opn 21 Dec 2012]

(5) [subs (5) rep Act 15 of 2012 s 3 and Sch[1] opn 6 Nov 2012]

(6) Nothing in this Section shall be deemed to prevent the institution of proceedings in respect of such offences under the other provisions of this Act.

54 Form and contents of summons

(1) Every summons issued by a magistrate under this Act shall be in writing, in duplicate, signed by the magistrate.

(2) Every summons shall be directed to the person summoned and shall require him or her to attend at a time and place to be therein appointed before the District Court. It shall state shortly the offence with which the person against whom it is issued is charged.

55 Service of summons

Every summons shall, if practicable, be served personally on the person summoned by delivering or tendering to him or her the duplicate of the summons.

56 Service when person summoned cannot be found

Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving the duplicate of it for him or her with an adult person normally residing in the same dwelling-house as the person summoned or with his or her employer.

57 Procedure where service cannot be effected as before provided

Where service in the manner provided by Sections 55 and 56 cannot by the exercise of due diligence be effected, the serving officer shall affix the duplicate of the summons to some conspicuous part of the house in which the person summoned ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

58 Service on company or corporation

Service of a summons on an incorporated company or a corporation or other body corporate may be effected by serving the duplicate of it on the secretary, local manager or other principal officer of the company, corporation or body corporate or in such other manner as the Resident Magistrate may direct.

59 Where summons may be served

Subject to any written law relating to the privileges and immunities of Parliament and its members, a summons may be served at any place within the Republic.

60 Proof of service

An affidavit purporting to be made before a magistrate or Commissioner for Oaths that a summons has been served shall be admissible in evidence and the statements made therein shall be deemed to be correct unless and until the contrary is proved and the summons shall be annexed to the affidavit or the affidavit may be endorsed on the same paper as the summons.

61 Power to dispense with personal attendance of accused

(1) Where a magistrate issues a summons in respect of any offence the maximum sentence for which is imprisonment for a term not exceeding 3 years, with or without a fine, and whether or not any disqualification may be ordered or may result from the accused being convicted, he or she may if he or she sees reason to do so, and shall where no sentence of imprisonment for a term exceeding 3 months may be imposed for the offence with which the accused is charged or, where he or she is charged with more offences than one, for any of those offences, whether or not any disqualification may be ordered, direct that the personal attendance of the accused will be dispensed with provided that he or she pleads guilty in writing or attends by a legal practitioner. Every such summons shall include a notice stating that any fine which may be imposed by the court shall be paid within 8 days of the date appointed in the summons for attendance thereon and a warning that he or she will not receive notification from the court as to any such fine but that it is his or her duty to make inquiry from the court and that, if he or she fails to pay the fine within that time or to apply within that time to the court for an extension of that time, he or she will be liable to be committed to prison.

(2) Where a direction that the personal attendance of the accused will be dispensed with has been given in a summons under this Section, the District Court may in its discretion, at any subsequent stage of the proceedings, direct the personal attendance of the accused and, if necessary but subject to the provisions of Section 62, enforce his or her attendance in the manner hereinafter in this Act provided but no warrant shall be issued unless a complaint or charge has been made upon oath or sworn evidence has been given in proof of the offence charged.

(3) Where the District Court convicts an accused person and it is proved to the satisfaction of the court that not less than 7 days before that conviction a notice was served on him or her in the prescribed form and manner specifying any alleged previous conviction of him or her for an offence

proposed to be brought to the notice of the court in the event of his or her conviction of the offence charged, and the accused is by reason of the provisions of this Section not present in person before the court, the court may take account of any such previous conviction so specified as if the accused had appeared and admitted it.

[subs (3) am Act 25 of 2012 s 3 and Sch[2], opn 21 Dec 2012]

(4) Where the District Court imposes a fine on an accused person who is not present in person before the court by reason of the provisions of this Section, the court may forthwith impose a sentence of imprisonment, not exceeding the term authorised by Section 276 of the *Crimes Act 2016*, to be served by the accused person in default of payment of the fine within 8 days or such further time as may be allowed by the court and, unless it has granted an extension of time for payment, the court may, upon such default, forthwith issue a warrant for his or her arrest and committal to prison to serve that sentence.

[subs (4) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 25 of 2012 s 3 and Sch[2], opn 21 Dec 2012; Act 18 of 2016 s 287 and Sch 2 clause 55, opn 12 May 2016]

(5) Where the District Court is of the opinion that it would be just to order disqualification under the provisions of the *Motor Traffic Act 2014* in respect of an accused person who is not present in person before the court by reason of the provisions of this Section, it shall order a summons to be served upon him or her calling upon him or her to show cause why such disqualification should not be imposed and, if the accused person does not attend upon the return of the summons or fails to show good cause why the disqualification should not be imposed, the court may order disqualification.

[subs (5) am Act 8 of 2011 s 12 and Sch 1[50], opn 15 Apr 2011; Act 25 of 2012 s 3 and Sch[2], opn 21 Dec 2012; Act 20 of 2016 s 9, opn 12 May 2016]

62 Warrant after issue of summons

(1) Notwithstanding the issue of a summons, a warrant for the arrest of the accused may, subject to the provisions of subsection (2), be issued at any time before or after the time appointed in the summons for his or her appearance but no such warrant shall be issued before the time appointed in the summons for his or her appearance unless the complaint has been made or the charge prosecuted upon oath, or sworn evidence has been given in proof of the offence.

(2) A warrant for the arrest of a person shall not be issued under this Section, Section 52, Section 53 or Section 61 unless the offence to which the warrant relates is punishable with imprisonment otherwise than only in default of payment of a fine.

63 Summons disobeyed

Where an accused person, after proper service of a summons, does not attend at the time and place appointed in and by the summons, and his or her personal attendance has not been dispensed with under Section 61, the District Court may issue a warrant to arrest him or her and cause him or her to be brought before it.

64 Form, contents and duration of warrant of arrest

(1) Every warrant of arrest issued under this Part shall be signed by the magistrate issuing it and bear the seal of the District Court.

(2) Every such warrant shall state shortly the offence with which the person against whom it is issued is charged and shall name or otherwise describe him or her and it shall order the person or persons to whom it is directed to arrest him or her and bring him or her before the District Court to answer to the charge therein mentioned and to be further dealt with according to law.

(3) Every such warrant shall remain in force until it is executed or until it is cancelled by the District Court.

65 Court may direct security to be taken

(1) A magistrate, when issuing a warrant for the arrest of a person in respect of any offence other than murder or treason, may in his or her discretion direct by endorsement on the warrant that, if that person executes a bond with sufficient sureties for his or her attendance before the court at a specified time and thereafter until otherwise directed by the court, the person to whom the warrant is directed shall take such security and shall release that person from custody.

(2) An endorsement under subsection (1) shall state:

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound; and

(c) the time at which he or she is to attend before the District Court.

(3) Wherever security is taken under this Section, the person to whom the warrant is directed shall forward the bond to the District Court.

66 To whom warrants are to be directed

(1) A warrant of arrest shall normally be directed generally to all police officers but the District Court may, if its immediate execution is necessary and no police officer is immediately available, direct it to any other person or persons and such person or persons shall execute it.

(2) Where a warrant is directed to more officers or persons than one, it may be executed by all or by any one or more of them.

67 Notification of substance of warrant

The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested.

68 Person arrested to be brought before the court without delay

A person arrested under a warrant of arrest shall, subject to the provisions of Section 65, be brought without unnecessary delay before the District Court.

[The next page is 281,421]

69 Where warrant of arrest may be executed

Subject to any written law relating to the privileges and immunities of Parliament and its members, a warrant of arrest may be executed at any place in the Republic.

70 Irregularities in warrant

Any irregularity or defect in the substance or form of a warrant and any variance between it and the written complaint or charge or between either and the evidence produced on the part of the prosecution at any preliminary inquiry or trial shall not affect the validity of any proceedings at or subsequent to the hearing of the case but, if any such variance appears to the court to be such that the accused has been thereby deceived or misled, the court may, at the request of the accused, adjourn the hearing of the case to some future date and in the meantime remand him or her to prison or admit him or her to bail.

71 Power to take bond for attendance

Where a person for whose attendance a magistrate is empowered to issue a summons is present in the District Court, the court may require that person to execute a bond, with or without sureties, for his or her attendance in that court.

72 Arrest for breach of bond for attendance

Where a person who is bound by any bond taken under this Act to attend before the District Court or who has made a deposit of money in lieu of executing such a bond does not so attend, the court may issue a warrant directing that he or she be arrested and brought before it.

73 Power of court to order prisoner to be brought before it

(1) Where a person for whose attendance or arrest a magistrate is empowered to issue a summons or warrant is confined in the prison, a magistrate may issue an order to the Chief Correctional Officer requiring him or her to bring that person in proper custody before the District Court at a time to be named in the order and, where that person is committed for trial to the Supreme Court, the Registrar may issue an order similarly for him or her to be brought before the Supreme Court.

[subs (1) am Act 20 of 2016 s 10, opn 12 May 2016]

(2) The Chief Correctional Officer shall, on receipt of an order made under this Section, act in accordance therewith and shall provide for the safe custody of the prisoner during his or her absence from the prison for that purpose.

[subs (2) am Act 20 of 2016 s 10, opn 12 May 2016]

74 Provisions of this part generally applicable to summonses and warrants

The provisions contained in this Part relating to the issue, service and execution of summonses and warrants shall, so far as they may be applicable, apply to the issue, service and execution of every summons and every warrant of arrest issued under this Act.

75 Power to issue search warrant

Where it is proved on oath to a magistrate that in fact or according to reasonable suspicion anything upon, by or in respect of which an offence has been

committed, or anything which is necessary to the conduct of an investigation into any offence, is in any building, ship, aircraft, vehicle, box, receptacle or place, the magistrate may issue a search warrant authorising a police officer or other person therein named to search the building, ship, aircraft, vehicle, box, receptacle or place, which shall be named or described in the warrant, for any such thing and, if anything searched for be found, or any other thing which there is reasonable cause to suspect to have been stolen or unlawfully obtained be found, to seize it and bring it before the District Court to be dealt with according to law.

76 Execution of search warrants

(1) A search warrant may be issued on any day, including a Sunday or a public holiday, and may be executed on any day, including a Sunday or a public holiday, between the hours of sunrise and sunset, but the magistrate may by the warrant, in his or her discretion, authorise the police officer or other person to whom it is addressed to execute it at any hour.

(2) As soon as practicable after the execution of a search warrant, the warrant shall be returned to the District Court endorsed with details of its execution, the person upon whose application the warrant was issued shall be responsible for its proper return.

77 Persons in charge of closed places to allow ingress thereto and egress therefrom

(1) Where any building or other place liable to search in execution of a search warrant is closed, a person residing in or being in charge of that building or place shall, on demand of the police officer or other person executing the warrant and on production of the warrant, allow him or her free ingress thereto and egress therefrom and afford all reasonable facilities for a search therein.

(2) Where ingress to or egress from any building or other place liable to search in execution of a search warrant is not allowed in accordance with subsection (1), the police officer or other person executing the warrant may proceed in the manner authorised by Sections 12 and 13.

(3) Where a person in or about any building or place liable to search in execution of a search warrant is reasonably suspected of having any article for which search is authorised concealed about his or her person, that person may be searched if that person is a woman or girl, the provisions of Section 15(4) shall be observed.

78 Detention of property seized

(1) Where any thing is seized and brought before the District Court under the provisions of Section 76, it may be detained until the conclusion of the case or the inquiry, reasonable care being taken for its preservation.

(2) Where any appeal is taken, or if a person is committed for trial, the District Court may order that anything seized and brought before it under the provisions of Section 76 shall be further detained for the purpose of the appeal or the trial.

(3) Where no appeal is taken, or if no person is committed for trial, the District Court shall direct that anything seized and brought before it under the

provisions of Section 76, shall be restored to the person from whom it was taken, unless the court is authorised or required by law to dispose of it otherwise or that person consents to its being disposed of otherwise.

79 Provisions applicable to search warrants

Where applicable, the provisions of Sections 64(1) and (3), 66 and 69, shall apply to all search warrants issued under Section 75.

80 Bail in certain cases

[s 80 rep Act 18 of 2018 s 34, opn 15 May 2018]

80A Considerations for bail

[s 80A rep Act 18 of 2018 s 34, opn 15 May 2018]

81 Recognizance of bail

[s 81 rep Act 18 of 2018 s 34, opn 15 May 2018]

82 Discharge from custody

[s 82 rep Act 18 of 2018 s 34, opn 15 May 2018]

83 Deposit instead of recognizance

[s 83 rep Act 18 of 2018 s 34, opn 15 May 2018]

84 Power to order sufficient bail when that first taken is insufficient

[s 84 rep Act 18 of 2018 s 34, opn 15 May 2018]

85 Discharge of sureties

[s 85 rep Act 18 of 2018 s 34, opn 15 May 2018]

86 Death of surety

[s 86 rep Act 18 of 2018 s 34, opn 15 May 2018]

87 Absconding or breaching conditions of bail offences

[s 87 rep Act 18 of 2018 s 34, opn 15 May 2018]

87A Alleged offences committed during the bail period

[s 87A rep Act 18 of 2018 s 34, opn 15 May 2018]

88 Forfeiture of recognizance

[s 88 rep Act 18 of 2018 s 34, opn 15 May 2018]

89 Appeal from and revision of orders

[s 89 rep Act 18 of 2018 s 34, opn 15 May 2018]

90 Offence to be specified in charge or information with necessary particulars

Every charge or information shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is

charged, together with such particulars as may be necessary for giving reasonable notice of the nature of the offence charged.

91 Joinder of counts in a charge or information

(1) Any offences may be charged together in the same charge or information if the offences charged are founded on the same facts or form, or are part of, a series of offences of the same or a similar character.

(2) Where more than one offence is charged in a charge or information, a description of each offence so charged shall be set out in a separate paragraph of the charge or information called a count.

(3) Where, before trial or at any stage of a trial, the court is of the opinion that an accused may be embarrassed in his or her defence by reason of being charged with more than one offence in the same charge or information, or that for any other reason it is desirable to direct that the person be tried separately for any one or more offences charged in a charge or information, the court may order a separate trial of any count or counts of that charge or information.

92 Joinder of two or more accused in one charge or information

(1) The following persons may be joined in one charge or information and may be tried together, namely:

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;

(c) persons accused of more offences than one of the same kind, that is to say, offences punishable with the same amount of punishment under the same Section of the *Crimes Act 2016* or of any other written law, committed by them jointly within a period of 12 months;

(d) persons accused of different offences committed in the course of the same transaction; or

(e) persons accused of any offence under Division 9.2, 9.3 or 9.5 of the *Crimes Act 2016*, and persons accused of receiving or retaining property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment or of attempting to commit either of such offences.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clauses 56, 57, opn 12 May 2016]

(2) Where, before trial or at any stage of a trial, the court is of opinion that the interests of justice require that one or more of several accused who are included in the one charge or information be tried separately from the others, it may so order and separate trials shall thereupon be held as ordered.

93 Rules for the framing of charges and information

The following provisions shall apply to all charges and information and, notwithstanding any rule of law or practice, a charge or information shall, subject to the provisions of this Act, not be open to objection in respect of its form or contents if it is framed in accordance with the provisions of this Act:

(a) Mode in which offences are to be charged:
  (i) a count of a charge or information shall commence with a statement of the offence charged, called the statement of offence;
  (ii) the statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence and, if the offence charged is one defined by a written law, shall contain a reference to the Section of the written law defining the offence;
  (iii) after the statement of the offence, particulars of the offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary:
  Provided that where any rule of law or any written law limits the particulars of an offence which are required to be given in a charge or information, nothing in this sub-paragraph shall require any more particulars to be given than those so required;
  (iv) the forms set out in the Schedule or forms conforming thereto as nearly as may be shall be used in the cases to which they are applicable; and
  (v) where a charge or information contains more than one count, the counts shall be numbered consecutively;

(b) Provisions as to statutory offences:
  (i) where a written law defining an offence states the offence to be the doing or the omission to do any one of a number of different acts in the alternative, or the doing or the omission to do any act in any one of a number of any different capacities, or with any one of a number of different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities, intentions or other matters stated in the alternative in the written law may be stated in the alternative in the count charging the offence; and
  (ii) it shall not be necessary, in any count charging an offence defined by a written law, to negative any exception or exemption from, or proviso or qualification to, the operation of the written law defining the offence;

(c) Description of property:
  (i) the description of property in a charge or information shall be in ordinary language and such as to indicate with reasonable clarity the property referred to and, if the property is so described, it shall not be necessary, except where required for the purpose of describing an offence depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property;
  (ii) where the property is vested in more than one person and the owners of the property are referred to in a charge or information, it shall be sufficient to describe the property as owned by one of those persons by name with others, and if the persons owning the property are a body of persons with a collective name, such as a firm or **"inhabitants"**, **"trustees"**, **"club"** or other such name, it shall be sufficient to use the collective name without naming any individual;
  (iii) property belonging to or provided for the use of any public establishment or department may be described as the property of the Republic; and
  (iv) coin and bank or currency notes of Naoero or of any foreign country

may be described as money and any allegation as to money, so far as regards the description of the property, shall be sustained by proof of the amount of money, whether coin, bank note or currency note, even though the particular species of coin or note of which that amount was composed is not proved and, in cases of stealing, embezzling and obtaining by false pretences, by proof that the accused person dishonestly appropriated or obtained any coin, bank note or currency note, or any portion of the value thereof, even though that coin, bank note or currency note may have been delivered to him or her in order that some part of the value thereof should be returned to the party delivering it or to some other person and that part has been returned accordingly;

(d) Description of persons:

The description or designation in a charge or information of the accused, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him or her, without necessarily stating his or her correct name or his or her abode, style, title or occupation and, if, owing to the name of the person not being known or for any other reason, it is impracticable to give such a description or designation, a description or designation shall be given such as is reasonably practicable in the circumstances, or the person may be described as "a person unknown";

(e) Description of documents:

Where it is necessary to refer to any document or instrument in a charge or information, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof;

(f) General rule as to description:

Subject to any other provisions of this Section, it shall be sufficient to describe any place, time, thing, matter, act or omission whatsoever to which it is necessary to refer in any charge or information in ordinary language in such a manner as to indicate with reasonable clarity the place, time, thing, matter, act or omission referred to;

(g) Statement of intent:

It shall not be necessary in stating any intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the written law defining the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence;

(h) Mode of charging previous convictions:

Where a previous conviction of an offence is alleged in a charge or information, it shall be alleged at the end of the charge or information by means of a statement that the accused has been previously convicted of the offence at a certain time and place without stating the particulars of the offence;

(i) Use of figures and abbreviations:

Figures and abbreviations may be used for expressing anything which is commonly expressed thereby; and

(j) Gross sum may be specified in certain cases of stealing:

Where a person is charged with stealing, it shall be sufficient to specify the gross amount of property alleged to have been stolen and the dates between which the stealing is alleged to have been committed without specifying particular times or exact dates.

[s 93 am Act 21 of 2026 s 5, opn 12 May 2026]

94 Person convicted or acquitted not to be tried again for same offence

A person who has been once tried by a court of competent jurisdiction for an offence and convicted or acquitted of that offence shall, while such conviction or acquittal has not been reversed or set aside, not be liable to be tried again on the same facts for the same offence or any offence in respect of which he or she could have been convicted on the charge, or any count of the charge, of which he or she was acquitted and, if required by any court to plead to an information or charge in respect of such an offence, may, instead of pleading to the information or charge, plead that he or she has already been convicted or acquitted of that offence, and the court shall thereupon try whether that plea is true and only if it finds the plea to be untrue shall the court require him or her to plead to the information or charge or to the count relating to that offence.

95 Person may be tried again for separate offence

A person convicted or acquitted of an offence may afterwards be tried for any other offence with which he or she might have been charged on the former trial under Section 91(1), except an offence of which he or she could have been convicted on any charge, or any count of the charge, in respect of which he or she was acquitted.

96 Consequences supervening or not known at time of former trial

A person convicted of any act causing consequences which together with that act constitute a different offence from that of which he or she was convicted, may be afterwards tried for that different offence if the consequences had not happened, or were not known to the court to have happened, at the time when he or she was convicted.

97 Where original court was not competent to try subsequent charge

Subject to the provisions of Section 273 (Offences under two or more Acts) of the *Crimes Act 2016*, a person convicted or acquitted of any offence constituted by any acts or omissions may, notwithstanding such conviction or acquittal, be subsequently charged with and tried for that or any other offence constituted wholly or in part by the same acts or omissions, if the court by which he or she was first tried was not competent to try the offence with which he or she is subsequently charged.

[s 97 am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 58, opn 12 May 2016]

98 Records of criminal and other convictions

(1) The Registrar shall establish, keep and maintain a Register of Records of Criminal Convictions and such other convictions which may be prescribed by regulations.

(2) The Register shall contain the following information of a person whose convictions are required to be kept and maintained:
(a) full name and address;

(b) date of birth;
(c) a photograph or photo identity, where available;
(d) the court in which the person was convicted;
(e) case reference number given by the court;
(f) nature of offences for which he or she was convicted;
(g) date when charge was filed;
(h) date of conviction, whether after pleading guilty or trial;
(i) date of sentence; and
(j) sentence.

(3) Where a person has been convicted for offences in more than one cause or matter, the information required to be recorded in subsection (2) shall be:
(a) recorded separately by reference to the number of causes or matters; and
(b) when required for any purpose, the Registrar shall, subject to subsection (5), provide a consolidated record.

(4) The records shall be provided under the hand of the Registrar, which shall when required for any proceeding, be admissible as evidence.

(5) Any records in excess of 15 years is deemed to be a spent conviction.

(6) The records kept by the Registrar shall without any charge or fees, be made available to:
(a) Naoero Police Force;
(b) Director of Public Prosecutions;
(c) Director of the Office of the Public Legal Defender; and
(d) any other official purpose of the Government.

[subs (6) am Act 21 of 2026 s 5, opn 12 May 2026]

(7) An individual, by himself or herself or any other authorised body or person may request the Registrar to provide a certificate of the record of any conviction, for a fee to be prescribed by regulations, which certificate shall be conclusive record of any such conviction.

(8) Any certificate of record issued by the Registrar is confidential and shall only be used for any lawful purpose requested or given.

(9) For the purposes of this Section and Section 98A:
(a) '***spent conviction***' means a previous conviction for which an accused person has been sentenced in the past and which shall not be referred to in court for any purpose or where it is so referred, it shall be disregarded by the court in its deliberations; and
(b) '***record of convictions***' means record of criminal and other convictions kept by the Registrar under subsection (1).

[s 98 subst Act 11 of 2020 s 4, opn 4 June 2020]

[The next page is 281,441]

98A Proving previous convictions

(1) A certificate of the record of convictions kept by the Registrar shall be admitted in evidence unless it is objected to by any party, in which case the party objecting shall give 10 days' notice of such objection.

(2) A prescribed certificate issued by a person appointed by the Minister for Justice to compare fingerprints of a person with a previous conviction shall be admissible evidence unless it is objected to by any party, in which case the party shall give 30 days' notice of grounds or reasons for objections.

(3) A record of criminal conviction in any place outside the Republic may be proved by:

(a) the production of a certificate given under the hand of a police officer or the person who keeps and maintains such records in the country where the person was convicted;

(b) a certified copy of the sentence or order under the hand of the officer in charge of the court in which the person was convicted; or

(c) a certified copy of the records of fingerprints or photographs of the fingerprints of the person kept by any authority in the country where the person was convicted.

(4) Where an objection is made under subsections (1) and (2), a person in charge of such records may be required to attend court as a witness or provide an affidavit duly sworn before a Commissioner for Oaths to be filed in court.

(5) Where an objection is made under subsection (3) for the admissibility of the evidence, the contents of the certificate shall be proven by an affidavit of a police officer or person in charge of such records, duly sworn before a Commissioner for Oaths, of the truth of the contents of conviction and the details.

[s 98A insrt Act 11 of 2020 s 5, opn 4 June 2020]

99 When leave of Cabinet necessary before prosecution may be instituted

Any proceedings for the trial of a person who is not normally resident in Naoero for an offence committed on the open sea within the territorial waters of Naoero shall not be instituted in any court except with the leave of the Cabinet and upon a certificate purporting to be signed by the Secretary to the Cabinet that the Cabinet considers it expedient that such proceedings should be instituted:

Provided that for the purposes of the requirement of consent and a certificate under this Section, proceedings before the District Court under Part 7 are not proceedings for the trial of a person; and

Provided further that it shall not be necessary to aver in any charge or information that the consent or certificate of the Cabinet required by this Section has been given and the fact of it having been given shall be presumed unless disputed by the accused person at the trial.

[s 99 am Act 21 of 2020 s 5, opn 23 Oct 2020; Act 21 of 2026 s 5, opn 12 May 2026]

100 Power to summon material witnesses and examine persons present

(1) A court may at any stage of any proceeding under this Act, of its own motion or on the application of any party, summon a person as a witness,

or examine a person in attendance though not summoned as a witness, or recall and re-examine a person already examined, and the court shall, unless the circumstances make it impossible to do so, summon and examine or recall and re-examine any such person if his or her evidence, or further evidence, appears to it essential to the just decision of the case:

Provided that the prosecutor, or the legal practitioner, if any, for the prosecution, and the accused, or his or her legal practitioner, if any, shall have the right to cross-examine any such person, and the court shall adjourn the case for such time, if any, as it thinks necessary to enable such cross-examination to be adequately prepared if, in its opinion, either party may be prejudiced by the calling of any such person as a witness.

(2) The provisions of Part 8 of the *District Court Act 2018* and Part 14 of the *Supreme Court Act 2018* shall apply *mutatis mutandis* in respect of a person who fails to attend before any court in obedience to a summons issued under subsection (1) as though that summons had been issued under the said Acts.

101 Evidence to be given on oath or affirmation

Every witness in a criminal cause or matter shall be examined upon oath or affirmation, and the court before which any witness attends shall have full power and authority to administer the usual oath or affirmation:

Provided that the court may at any time, if it thinks it just and expedient for reasons to be recorded in the proceedings, take without oath or affirmation the evidence of a person who by reason of immature age ought not, in the opinion of the court, to be admitted to give evidence on oath or affirmation and the fact of the evidence having been so taken shall be recorded in the proceedings.

102 Refractory witnesses

A person who, attending either in obedience to a summons or by virtue of a warrant, or being present in court and being verbally required by the court to give evidence:

(a) refuses to be sworn or affirmed;

(b) having been sworn or affirmed, refuses to answer any question properly put to him or her; or

(c) refuses or neglects to produce any document or thing which he or she is required to produce,

without in any such case offering any sufficient excuse for such refusal or neglect, is guilty of an offence and is liable to imprisonment for 6 months and a fine of $200.

103 Compulsory disclosures not to afford evidence

In any proceedings in respect of any offence against any written law, a statement or admission made by a person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy or insolvency is not admissible in evidence against that person.

104 Negative averments

Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany in the same Section the description of the offence in the

written law defining such offence, and whether or not specified or negatived in the charge or complaint, may be proved by the accused, but no proof in relation thereto shall be required on the part of the complainant or prosecutor.

105 Cases where wife or husband may be called without the consent of the accused

(1) In any inquiry or trial the wife or husband of the accused shall be a competent witness for the prosecution or defence without the consent of the accused:

(a) in any case where the wife or husband of the accused may, under any law in force for the time being, be called as a witness without the consent of the accused;

(b) in any case where the accused is charged with an offence under Part 7 (Sexual offences) or Section 149 (Bigamy) of the *Crimes Act 2016*; and

(c) in any case where the accused is charged in respect of an act or omission affecting the person or property of the wife or husband of the accused or the children of either of them.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 59, opn 12 May 2016]

(2) For the purposes of this Part, no person shall be deemed to be the wife or husband of any other person unless they are lawfully married to one another.

106 Competency of accused and husband or wife as witness in criminal cases

A person charged with an offence, and the wife or husband, as the case may be, of the person so charged, shall be a competent witness for the defence at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person:

Provided that:

(a) an accused shall not be called as a witness in pursuance of this Section except upon his or her own application;

(b) the wife or husband of the accused shall not, save as provided in Section 105, be called as a witness except upon the application of that accused;

(c) nothing in this Section shall make a husband compellable to disclose any communication made to him by his wife during their marriage, or a wife compellable to disclose any communication made to her by her husband during their marriage;

(d) an accused who is a witness in pursuance of this Section may be asked any question in cross-examination, notwithstanding that it would tend to incriminate him or her as to the offence charged;

(e) an accused who is called as a witness in pursuance of this Section shall not be asked, and if asked shall not be required to answer, any question tending to show that he or she has committed or been convicted of or been charged with any offence other than that wherewith he or she is then charged, or is of bad character, unless:

(i) the proof that he or she has committed or been convicted of such other offence is admissible evidence to show that he or she is guilty of the offence wherewith he or she is then charged;

(ii) he or she has personally or by his or her legal practitioner asked questions of any witness with a view to establishing his or her own good character or has given evidence of his or her own good character, or the nature or conduct of the defence is such as to involve imputations on the character of the complainant or the witnesses for the prosecution; or

(iii) he or she has given evidence against any other person charged with the same offence;

(f) every person called as a witness in pursuance of this Section shall, unless otherwise ordered by the court, give his or her evidence from the witness box or other place from which the other witnesses have given their evidence; and

(g) nothing in this Section shall affect the provisions of Section 202 or any right of the accused to make a statement without being sworn.

107 Procedure where accused is called as witness

Where the accused is called by the defence as a witness to the facts of the case, he or she shall be called as a witness immediately after the close of the evidence for the prosecution.

108 Right of reply

In cases where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the accused has been called as a witness shall not of itself confer on the prosecution the right of reply.

109 Inquiry by court as to unsoundness of mind of accused

(1) Where in the course of a trial or inquiry or at any time after a formal charge has been presented or drawn up, the court which has charge of the proceedings has reason to believe that the accused may be of unsound mind so as to be incapable of making his or her defence, it shall inquire into the fact of such unsoundness and, if the accused is not present in court and it appears to the court that it would be unreasonable to bring him or her before the court, he or she shall be interviewed by a magistrate, in whatever place is most appropriate, for the purpose of endeavouring to explain to him or her the nature of the charge and of hearing whatever he or she has to say which is relevant to the issue of insanity and the magistrate shall cause a note of the interview to be placed on the record of the proceedings.

(2) Where the court is of the opinion that the accused is of unsound mind so that he or she is incapable of making his or her defence, it shall postpone further proceedings in the case and shall report the case to the President.

(3) Where the case is one in which bail may be taken, the court may release the accused person on sufficient security being given that he or she will be properly taken care of and prevented from doing injury to himself or herself or to any other person, and for his or her attendance before the court or such officer as the court may appoint in that behalf.

(4) Upon consideration of the court record or a copy thereof, the President may order that the accused be confined in a hospital or a suitable place of custody and the court shall issue a warrant in accordance with that order. Any such order of the President shall be sufficient authority for the detention of the accused person until the President shall make a further

order in the matter or until the court which has found him or her incapable of making his or her defence orders him or her to be brought before it again in the manner provided by Section 112 and, while so confined, the accused shall be deemed to be in lawful custody.

110 Defence of unsoundness of mind at preliminary inquiry

Where the accused appears to be of sound mind at the time of a preliminary inquiry, the District Court, notwithstanding that it is alleged that, at the time when the act was committed in respect of which the accused is charged, he or she was by virtue of the provisions of Section 42 of the *Crimes Act 2016* not criminally responsible for the act, shall proceed with the inquiry and, if the accused ought, in the opinion of the court, to be committed for trial on information, the court shall so commit him or her.

[s 110 am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 60, opn 12 May 2016]

111 Defence of unsoundness of mind on trial

Where any act or omission is charged against a person as an offence and it is given in evidence on the trial of such person for that offence that by virtue of the provisions of Section 42 of the *Crimes Act 2016*, he or she was not criminally responsible for his or her act or omission at the time when the act was done or the omission made, then, if it appears to the court before which that person is tried that he or she did the act or made the omission charged but was not criminally responsible as aforesaid at the time when he or she did or made it, the court shall make a special finding to the effect that the accused was not guilty by reason of insanity. Where such a special finding is made, the court shall report the case for the order of the President and shall meanwhile order the accused to be kept in custody in such place and in such manner as the court shall direct. The President may order the accused to be confined in a hospital or in a prison or other suitable place of safe custody and, while so confined, the accused shall be deemed to be in lawful custody.

[s 111 am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 60, opn 12 May 2016]

112 Resumption of trial

Where any trial is postponed under the provisions of Section 109, the court may at any time resume the trial and require the accused to attend or be brought before it and, if the court then considers him capable of making his or her defence, the trial shall proceed but, if the court considers the accused to be still incapable of making his or her defence, it shall act as if the accused were brought before it for the first time.

[s 112 subst Act 20 of 2016 s 15, opn 12 May 2016]

113 Certificate of medical officer of hospital as to sanity to be evidence

Where a person is confined in a hospital under the provisions of this Act and the medical officer in charge of that hospital certifies that the accused appears to be capable of making his or her defence, the accused shall be taken before the court at such time as the court appoints to be dealt with according to law, and the certificate of the medical officer shall be receivable in evidence.

114 Procedure where accused does not understand proceedings

(1) Where the accused, though not of unsound mind, cannot be made to understand the proceedings:

(a) in cases tried by the District Court, the court shall proceed to hear the evidence and, if at the close of the evidence for the prosecution and, if the defence has been called upon, of any evidence for the defence the court is of the opinion that the evidence which it has heard would not justify a conviction, it shall acquit and discharge the accused but, if the court is of the opinion that the evidence which it has heard would justify a conviction, it shall order the accused to be detained during the President's pleasure but every such order shall be subject to confirmation by a judge of the Supreme Court; or

(b) in cases which are the subject of trial by the Supreme Court:

(i) the District Court shall hear the evidence for the prosecution and, if satisfied that a *prima facie* case has been proved, shall commit the accused for trial by the Supreme Court and either admit him or her to bail or commit him or her to prison for safe keeping; and

(ii) [repealed]

(iii) if the Director of Public Prosecutions states to the District Court that he or she does not intend to file an information, the accused shall be at once discharged in respect of the charge made against him or her and, if he or she has been committed to prison, shall be released and, if on bail, his or her recognizance shall be discharged but such a discharge shall not operate as a bar to any subsequent proceedings against him or her on account of the same facts.

[subs (1) am Act 20 of 2016 s 16, opn 12 May 2016]

(2) A person ordered under the provisions of this Section to be detained during the President's pleasure shall be liable to be detained in such place and under such conditions as the President may, from time to time, by order in writing, direct and, while so detained, shall be deemed to be in lawful custody.

(3) The President may at any time, of his or her own motion or after receiving a report from a person or persons thereunto empowered by him or her, order that a person detained as provided in subsection (2) be discharged or otherwise dealt with subject to such conditions as to the person remaining under supervision in any place or by a person, and such other conditions for ensuring the welfare of the said person and the public, as the President shall think fit.

(4) Where a person has been ordered to be detained during the President's pleasure under the provisions of subsection (1), the confirming or presiding Judge shall forward to the President a copy of the notes of evidence taken at the trial, together with a report in writing signed by him or her containing any recommendation or observations on the case he or she may think fit to make.

115 Mode of delivering judgment

(1) The judgment in every trial of a criminal cause in any court in the exercise of its original jurisdiction shall be delivered, or the substance of such judgment shall be explained, in open court either immediately after the

termination of the trial or at some subsequent time of which notice shall be given to the parties and their legal practitioners, if any:

Provided that the whole judgment shall be read out by the presiding Judge or magistrate, or the magistrate having charge of the proceedings, as the case may be, if he or she is requested to do so either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought before the court and, if not in custody, be required by the court to attend, to hear judgment delivered, except where the court has proceeded to the determination of the case in the absence of the accused under Section 151 or his or her personal attendance during the trial has been dispensed with and the sentence is one of a fine only or where he or she is acquitted.

(3) No judgment delivered by any court shall be deemed to be invalid by reason only of the absence of any party or his or her legal practitioner on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their legal practitioners, or any of them, the notice of such day and place.

116 Contents of judgment

(1) Any judgment in the trial of a criminal cause shall, except as otherwise expressly provided by any written law, be written by the presiding Judge or magistrate, or the magistrate having charge of the proceedings, as the case may be, in the language of the court, and shall contain the point or points for determination, the decision thereon and the reasons for the decision, and shall be dated and signed by the presiding Judge or magistrate, or the magistrate having charge of the proceedings, in open court at the time of pronouncing it:

Provided that where the accused has admitted the truth of the charge and has been convicted, it shall be a sufficient compliance with the provisions of this subsection if the judgment contains only the finding and sentence or other final order and is signed and dated by the presiding Judge, or magistrate, or the magistrate having charge of the proceedings, as the case may be, at the time of pronouncing it.

(2) In the case of a conviction, the judgment shall specify the offence of which, and in the case of an offence defined by the *Crimes Act 2016* or any other written law, the Section of the *Crimes Act 2016* or the other written law under which, the accused is convicted and the sentence imposed.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 61, opn 12 May 2016]

(3) In the case of an acquittal, the judgment shall state the offence of which the accused is acquitted and shall direct that he or she be set at liberty.

117 Copy of judgment, etc, to be given to accused on application

On the application of the accused a copy of the judgment or, if he or she so desires and it is reasonably practicable, a translation in his or her own language, shall be given to him or her free of cost without unnecessary delay.

118 Costs

[s 118 rep Act 40 of 2018 s 6, opn 18 Dec 2018]

118A No costs to be awarded

(1) For the avoidance of doubt and despite any other written law, the court shall have no jurisdiction to make an order for costs in its original or appellate jurisdiction in any criminal cause or matter for or against both the accused persons and the prosecution.

(2) Where there is an inconsistency between this provision and any other written law, this provision shall prevail.

[s 118A insrt Act 40 of 2018 s 7, opn 18 Dec 2018]

119 Order to pay costs appealable

[s 119 rep Act 40 of 2018 s 8, opn 18 Dec 2018]

120 Compensation in case of frivolous or vexatious charges

Where on the acquittal of an accused or the dismissal of any charge the District Court is of the opinion that the charge was frivolous or vexatious, the court may order the complainant to pay to the accused in addition to his or her costs a reasonable sum as compensation for the trouble and expense to which he or she has been put by reason of the charge.

[The next page is 281,461]

121 Power of courts to award expenses or compensation out of fine

(1) A court may, in its discretion, order the whole or any part of any fine imposed or money found on or in the possession of a person who has been, or is subsequently, convicted, or who has been, or is subsequently, discharged without conviction under the provisions of any written law following a finding that he or she is guilty of an offence, to be applied in or towards the:

(a) defraying of the costs or expenses properly incurred in the prosecution;

(b) payment to a person of compensation for any loss or injury caused by the offence of which the accused has been convicted or found guilty or by any other offence which is taken into consideration by the court in determining his or her sentence;

(c) defraying of any compensation awarded under the provisions of Section 120; or

(d) payment to a person of compensation for any loss sustained by him or her in consequence of any order made under the provisions of this Part for the restitution or disposal of any property or thing.

(2) In determining whether or not to impose a fine and in deciding the quantum of a fine, a court may take into account the fact that an order under subsection (1) would be appropriate but shall at all times have regard to the means of the accused as they appear or are known to the court.

(3) Where an order is made under subsection (1) in a case which is subject to appeal, no payment ordered shall be made before the period allowed for presenting the appeal has elapsed or, if an appeal is presented, before the determination of the appeal.

(4) At the time of awarding compensation in any subsequent civil suit relating to the same matter, a court shall take into account any sum paid or recovered as compensation under this Section.

(5) At any time before compensation has been paid in pursuance of an order made under subsection (1), if it appears to the court that:

(a) the loss or injury in respect of which the order was made has been held in civil proceedings to be less than it was taken to be for the purposes of the order; or

(b) where the order related to the loss of any property, the property has been recovered by the person in whose favour the order was made,

the court may, upon the application of the accused, cancel or amend the order and by such amendment may, if it thinks fit, order that any part of the fine, if paid, be refunded to the accused.

(6) Where the Supreme Court in the exercise of its appellate or revisional jurisdiction imposes or increases any fine or quashes an order of acquittal and imposes a conviction, it shall have the same powers to make an order under subsection (1) as though it were the court of first instance.

121A Compensation Orders

(1) Where after the commencement of this Section a person, "***the offender***", is found guilty of an offence the maximum penalty for which is imprisonment for a period of 3 years or more, and the offender is convicted or discharged without conviction and the court is satisfied that, as a direct result of the

commission of the offence, a person other than the offender has suffered bodily injury or injury to property, the court may:

(a) in respect of any bodily injury, order the offender to make compensation to that person by means of the payment of a specified amount of money not exceeding $10,000; or

(b) in respect of any injury to property, order the offender to make compensation to that person by means of the payment of a specified amount or an amount to be assessed by a person appointed by the court not exceeding the reasonable cost of repair or replacement of the property.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[50], opn 15 Apr 2011]

(2) An order under subsection (1) may be made in addition to any other penalty imposed on, or order made in relation to, the offender.

(3) Where the court makes an order under subsection (1):

(a) the court may direct that the amount be paid by specified instalments; and

(b) the amount to be paid pursuant to the order, or each instalment as it falls due, as the case requires, is a debt due to the person in whose favour the order is made.

(4) Where an order is made under subsection (1) and the amount ordered to be paid is not paid on the due date, the person in whose favour the order is made may apply for and is entitled to an order attaching property under Part 2 of the *Civil Procedure Act 1972* for recovery of the full amount to be paid whether or not an order for instalments had been made.

(5) Notwithstanding anything to the contrary in the *Civil Procedure Act 1972*, an order attaching property made under subsection (4) can be made against any real property in which an offender has any interest or any building in which an offender has an interest and which is constructed upon land owned by a person or persons other than the offender.

(6) Where a conviction referred to in subsection (1) is subject to appeal, the court may in making an order under subsection (1) further order that pending the presentation of an appeal or of the determination of an appeal the payment of the amount is to be suspended but that the offender not dispose of any property without the approval of the court and, where the amount exceeds $5,000, provide surety to the value of the amount ordered to be paid.

(7) Nothing in this Section shall be construed as removing or affecting a cause of action which a person may have to recover damages for bodily injury or injury to property suffered by the person, but in proceedings in relation to that cause of action the court shall have regard to an amount paid pursuant to an order made under this Section.

[s 121A insrt Act 8 of 2006 s 4, opn 11 Aug 2006]

122 Payment to innocent person of money found on accused

Where a person is found guilty of any offence of, or which includes, stealing or receiving stolen property and the court which has found him or her guilty is satisfied that any other person has bought the stolen property from him or her without knowing or having reason to suspect that it was stolen, then, if any money has been found on or in the possession of the person found guilty, the court may, whether or not it proceeds to conviction, on the application of the

purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of that money a sum not exceeding the price paid by the purchaser shall be delivered to him or her.

123 Promotion of reconciliation

A court may, on terms of payment of compensation or other terms approved by it, promote reconciliation and encourage and facilitate the settlement in an amicable way of all proceedings before it for common assault or for any other offence of a personal or private nature for which, upon conviction, a fine or sentence of imprisonment for a term not exceeding one year may be imposed, and may thereupon order the proceedings to be stayed or terminated.

124 Preservation or disposal of property

(1) It shall be lawful for any court in any criminal proceedings to make orders for:

(a) the preservation, or interim custody or detention, of any property produced in evidence or as to which any question may arise in the proceedings;

(b) the sale, destruction or other disposal of any such property as may be of a perishable nature or liable to deteriorate, or as may be dangerous;

(c) the restoration or awarding of possession of any such property to the person appearing to the court to be entitled to possession thereof, without prejudice however to any civil proceedings which may be taken with respect thereto;

(d) the payment by a person of the expense incurred in or about the preservation, custody, detention, sale, destruction or other disposal of any such property or the proceeds thereof; or

(e) the application of any such property or the proceeds thereof, in or towards satisfaction or payment of any such costs or compensation as may be ordered by the court to be paid by a person.

(2) An order made under the provisions of subsection (1)(d), may be enforced as if the order were the imposition of a fine.

(3) Where an order is made under the provisions of this Section in a case in which an appeal lies, such order shall not, except where the property is liable to deterioration or decay or is dangerous, be carried out until the period allowed for presenting an appeal has passed or, where an appeal is presented within that period, until the appeal has been determined.

125 Property stolen to be restored to owner

(1) Where a person guilty of any such offence as is mentioned in Division 9.2, 9.3 or 9.5 of the *Crimes Act 2016*, by stealing, taking, obtaining, extorting, converting or disposing of, or by knowingly receiving, any property, is prosecuted to conviction by a public prosecutor or by or on behalf of the owner of that property, or is found guilty on any such prosecution but is discharged under the provisions of any written law without conviction, the property shall be restored to the owner or his or her representative.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 62, opn 12 May 2016]

(2) In every case referred to in subsection (1), the court before which any such

offender is convicted, or discharged without conviction, shall have power to award from time to time writs of restitution for the property or to order the restitution thereof in a summary manner:

Provided that:

(a) where goods as defined in the *Sale of Goods Act 1893* of England in its application to Naoero have been obtained by fraud or other wrongful means not amounting to stealing, the property in those goods shall not revest in the person who was the owner of the goods, or his or her personal representative, by reason only of the conviction of the offender; and

(b) nothing in this Section shall apply to the case of any valuable security which has been in good faith paid or discharged by some person liable for the payment thereof or, being a negotiable instrument, has been in good faith taken or received by transfer or delivery by some person for a just and valuable consideration without any notice or without reasonable cause to suspect that the same had been stolen.

[subs (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) The operation of any order under this Section shall, unless the court before which the conviction or discharge takes place directs to the contrary in any case in which the title to the property is not in dispute, be suspended:

(a) in any case until the time allowed for presenting an appeal has passed;

(b) in a case where an appeal is presented, until the determination of the appeal,

and, in cases where the operation of any such order is suspended until the determination of the appeal, the order shall not take effect as to the property in question if the conviction is quashed on appeal, unless the Supreme Court so directs. The Chief Justice may make provision by rules for securing the safe custody of any property pending the suspension of the operation of any such order.

(4) A person aggrieved by an order made under this Section by the District Court may appeal to the Supreme Court and upon the hearing of any such appeal the court may by order annul or vary any order made on a trial for the restitution of any property to a person, even though the conviction or order of discharge is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

126 Stay of order

Upon the application of a person affected by any order or interested in the property the subject of any order made under the provisions of Sections 124 and 125, the Supreme Court may direct any such order made by the District Court to be stayed pending consideration by the Supreme Court and may modify, alter or annul any such order.

127 Restoration of possession of real property

(1) Where a person is convicted of an offence attended by criminal force, threat or intimidation and it appears to the court that by such force, threat or intimidation a person has been dispossessed of any real property, the court may, if it thinks fit, order possession of that property to be restored to the person so dispossessed.

(2) An order under this Section, may be enforced by warrant addressed to a police officer.

(3) No such order shall prejudice any right or interest to or in the real property which a person may be able to establish in a civil suit or in proceedings before the Naoero Lands Committee.

[subs (3) am Act 21 of 2026 s 5, opn 12 May 2026]

128 Procedure by police on seizure of property

(1) A report of any property or thing which has come into the possession of any police officer in connection with any charge or offence or suspected offence, the ownership of which property or thing is in doubt, shall be made forthwith to the Resident Magistrate who shall make such order as he or she thinks fit respecting the delivery of the property to the person entitled to the possession thereof or, if such person cannot be ascertained, respecting the custody and protection of the property.

(2) Where the identity of the person entitled to possession of the property is known, the Resident Magistrate may order the property to be delivered to him or her on such conditions, if any, as he or she thinks fit.

(3) The Resident Magistrate shall, on making an order under the provisions of subsection (2), cause a notice to be served on the person entitled to possession of the property informing him or her of the terms of the order and requiring him or her to take delivery of the property within such period from the date of the service of the notice, not being less than 48 hours, as the Resident Magistrate may in such notice prescribe.

(4) Where the person entitled to possession of the property is unknown or cannot be found, the Resident Magistrate shall direct that the property be detained in police custody and it shall thereafter be dealt with in accordance with the provisions of the *Naoero Police Force Act 2025* as though it were property which has come into the custody of the police other than in connection with a criminal charge and the provisions of that Act shall apply to such property where appropriate.

[subs (4) am Act 38 of 2025 s 201, opn 19 Sep 2025; Act 21 of 2026 s 5, opn 12 May 2026]

129 Conviction of minor offence included in offence charged

(1) Where a person is charged with an offence consisting of several particulars, one or a combination of some only of which constitutes another complete offence, and that one particular, or such combination, is proved but the remaining particulars are not proved, he or she may be convicted of that other offence although he or she is not charged with it.

(2) Where a person is charged with an offence and facts are proved which reduce it to a minor and cognate offence, he or she may be convicted of the minor offence although he or she is not charged with it.

(3) In this subsection, a minor offence is one for which, upon conviction, a lesser maximum sentence is provided by any written law.

130 Conviction of attempt

Where a person is charged with an offence, he or she may be convicted of having attempted to commit that offence, although he or she is not charged with the attempt.

131 Conviction of killing unborn child on charge of murder, etc
[s 131 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

132 Conviction of procuring abortion on charge of killing unborn child
[s 132 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

133 Conviction of concealment of birth on charge of murder, etc
[s 133 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

134 Conviction of careless or dangerous driving on charge of manslaughter
[s 134 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

135 Conviction of cognate offence on charge of rape
[s 135 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

136 Conviction of unlawful carnal knowledge on charge of incest
[s 136 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

137 Conviction of cognate offence on charge of defilement of girl under 17 years of age
[s 137 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

138 Conviction of cognate offence on charge of defilement of girl under 13 years of age
[s 138 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

139 Conviction of cognate offence on charge of burglary, etc
[s 139 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

140 Conviction of receiving, retaining or obtaining by false pretences on charge of stealing
[s 140 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

141 Conviction of stealing on charge of obtaining by a false pretence
[s 141 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

142 Conviction of assault with intent to rob on charge of robbery
[s 142 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

143 Construction of Sections 129 to 142 inclusive
[s 143 rep Act 18 of 2016 s 287 and Sch 2 clause 63, opn 12 May 2016]

144 Persons charged with jointly receiving property may be convicted on proof that property was received separately
Where any two or more persons are charged with jointly receiving or retaining

any property knowing, or having reason to believe, the same to have been stolen or unlawfully obtained, and it is proved that one or more of such persons separately received or retained any part of such property, such of the persons may be convicted as are proved to have received any part of such property.

144A Erroneous sentence or process or warrant

Where the sentence was passed, or the process was issued, by a court having jurisdiction under any circumstances to pass such a sentence or to issue such process, or if the warrant was issued by a court or justice or other person having authority under any circumstances to issue such a warrant, it is immaterial whether the court or justice or person had or had not authority to pass the sentence or issue the process or warrant in the particular case; unless the person executing the same knows that the sentence or process or warrant was in fact passed or issued without authority.

[s 144A insrt Act 18 of 2016 s 287 and Sch 2 clause 12, opn 12 May 2016]

144B Sentence or process or warrant without jurisdiction

A person who executes or assists in executing any sentence, process, or warrant, which purports to be passed or issued by a court, justice, or other person, and who would be justified in executing the same if it had been passed or issued by a court, justice, or person having authority to pass or issue it, is not criminally responsible for any act done in such execution, notwithstanding that the court, justice, or person, had no authority to pass the sentence or issue the process or warrant, if in such execution he or she acted in good faith and in the belief that the sentence, process, or warrant, was that of a court, justice, or other person, having such authority.

[s 144B insrt Act 18 of 2016 s 287 and Sch 2 clause 14, opn 12 May 2016]

144C Arrest of wrong person

A person who, being duly authorised to execute a warrant to arrest one person, arrests another person, believing in good faith and on reasonable grounds that the person arrested is the person named in the warrant, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant. A person who lawfully assists in making such an arrest, believing that the person arrested is the person named in the warrant, or who, being required by the warrant to receive and detain the person named in it, receives and detains the person so arrested, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

[s 144C insrt Act 18 of 2016 s 287 and Sch 2 clause 15, opn 12 May 2016]

144D Irregular process or warrant

Where any process or warrant is bad in law by reason of some defect in substance or in form apparent on the face of it, a person who, in good faith and believing that it is good in law, acts in the execution of the process or warrant, is not criminally responsible for anything done in such execution to any greater extent than if the process or warrant were good in law.

[s 144D insrt Act 18 of 2016 s 287 and Sch 2 clause 16, opn 12 May 2016]

144E Force used in executing process or in arrest

It is lawful for a person who is engaged in the lawful execution of any sentence, process, or warrant, and for a person lawfully assisting him or her, to use such force as may be reasonably necessary to overcome any force used in resisting such execution.

[s 144E insrt Act 18 of 2016 s 287 and Sch 2 clause 19, opn 12 May 2016]

144F Duty of persons arresting

It is the duty of a person executing any process or warrant to have it with him or her, and to produce it if required. It is the duty of a person arresting another, whether with or without warrant, to give notice, if practicable, of the process or warrant under which he or she is acting or of the cause of the arrest. A failure to fulfil either of the aforesaid duties does not of itself make the execution of the process or warrant or the arrest unlawful, but is relevant to the inquiry whether the process or warrant might not have been executed or the arrest made by reasonable means in a less forcible manner.

[s 144F insrt Act 18 of 2016 s 287 and Sch 2 clause 20, opn 12 May 2016]

144G Particulars

The court may, in any case, if it thinks fit, direct particulars to be delivered to the accused person of any matter alleged in the information, and may adjourn the trial for the purpose of such delivery.

[s 144G insrt Act 18 of 2016 s 287 and Sch 2 clause 24, opn 12 May 2016]

144H Conviction for attempt to commit offence

(1) Upon an information charging a person with procuring the commission of any offence, he or she may be convicted of attempting to procure the commission of that offence, or of attempting to procure the commission of any other offence of such a nature that a person may be convicted of it upon an information charging him or her with committing the offence of which the accused person is alleged to have procured the commission.

(2) Upon an information charging a person with attempting to commit any offence, he or she may be convicted of attempting to commit any other offence of such a nature that a person may be convicted of it upon an information charging him or her with committing the offence which the accused person is alleged to have attempted to commit.

(3) Upon an information charging a person with attempting to procure another to do an act or make an omission of such a nature that if the act had been done or the omission had been made, an offence would thereby have been committed he or she may be convicted of attempting to procure that other person to do any other act or make any other omission of such a nature that if the act had been done or the omission had been made an offence would thereby have been committed, such last-mentioned offence being itself of such a nature that a person may be convicted of it upon an information charging him or her with doing the act or making the omission which the accused person is alleged in the information to have attempted to procure that other person to do or make.

[s 144H insrt Act 18 of 2016 s 287 and Sch 2 clause 27, opn 12 May 2016]

144I Accomplices

A person cannot be convicted of an offence on the uncorroborated testimony of an accomplice or accomplices.

[s 144I insrt Act 18 of 2016 s 287 and Sch 2 clause 37, opn 12 May 2016]

144J Evidence on trials for perjury and subornation

On the trial of a person charged with an offence of which the giving of false testimony by a person at the trial of a person charged with an offence is an element, a certificate setting out the substance and effect only, without the formal parts, of the information or complaint, and the proceedings at the trial, and purporting to be signed by the officer having the custody of the records of the court where the information or complaint was tried, or by his or her deputy, is sufficient evidence of the trial, without proof of the signature or official character of the person who appears to have signed the certificate.

[s 144J insrt Act 18 of 2016 s 287 and Sch 2 clause 39, opn 12 May 2016]

144K Evidence on charges of offences against customs laws

On the trial of a person charged with any offence of which the fact that some person was at some particular time a Customs officer, or was at some particular time employed for the prevention of smuggling, is an element, the averment in the indictment or complaint that a person therein mentioned was a Customs officer, or was employed for the prevention of smuggling, at any time therein stated is sufficient evidence of the fact, until the contrary is shown.

[s 144K insrt Act 18 of 2016 s 287 and Sch 2 clause 41, opn 12 May 2016]

144L Intention to defraud

On the trial of a person charged with any offence of which an intent to injure or deceive or defraud, or an intent to enable another person to deceive or defraud, is an element, it is not necessary to prove an intent to injure or deceive or defraud any particular person, or an intent to enable any particular person to deceive or defraud any particular person.

[s 144L insrt Act 18 of 2016 s 287 and Sch 2 clause 41, opn 12 May 2016]

144M Sentence

(1) Where a motion to arrest the judgment is not made or is dismissed, the court may either pass sentence upon the offender forthwith or may discharge him or her on his or her recognizance, as hereinbefore provided, conditioned that he or she shall appear and receive judgment at some future sittings of the court, or when called upon.

(2) Where the trial was had in a circuit court, the recognizance may, in the discretion of the court, be conditioned to appear and receive judgment before the Supreme Court at some fixed future time, or when called upon.

(3) Where sentence is not passed forthwith, any Judge of the court may at any subsequent sitting of the court at which the offender is present pass

sentence upon him or her. The court may, before passing sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed.

[s 144M insrt Act 18 of 2016 s 287 and Sch 2 clause 43, opn 12 May 2016]

[The next page is 281,661]

PART 5 — MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS

[Pt 5 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

145 Evidence to be taken in presence of accused

Except as otherwise expressly provided, all evidence taken in any inquiry or trial under this Act, shall be taken in the presence of the accused or, where his or her personal attendance has been dispensed with, in the presence of his or her legal practitioner if any:

Provided that nothing in this Section shall render it unlawful for any court to take evidence in an inquiry or trial in the absence of the accused, if he or she has by his or her misconduct in court prevented the taking of such evidence in his or her presence.

146 Proof by written statement

(1) In any criminal proceedings, a written statement by a person shall, if such of the conditions mentioned in subsection (2) as are applicable are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person.

[subs (1) am Act 20 of 2016 s 17, opn 12 May 2016]

(2) The conditions referred to in subsection (1) are:

(a) the statement purports to be signed by the person who made it;

(b) the person who made it cannot conveniently attend before the court at the time when the court will take evidence in those proceedings;

(c) the statement contains a declaration by that person 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 wilfully stated in it anything which he or she knew to be false or did not believe to be true;

(d) before the trial at which the statement is tendered in evidence, a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings; and

(e) none of the other parties, or their legal practitioners if any, within 7 days from the service of the copy of the statement, serves on the party so proposing a notice objecting to the statement being tendered in evidence under this Section:

Provided that the conditions mentioned in subsection (2)(b), (c), (d) and (e) shall not apply if the parties agree before or during the hearing that the statement shall be so tendered.

(3) The following provisions shall also have effect in relation to any written statement tendered in evidence under this Section, that is to say:

(a) if the statement is made by a person under the age of 21, it shall give his or her age;

(b) if it is made by a person who cannot read it, it shall be read to him or her before he or she signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read;

(c) if it refers to any other document as an exhibit, the copy served on any other party to the proceedings under subsection (2)(d) shall be

accompanied by a copy of that document or by such information as may be necessary in order to enable the party on whom it is served to inspect that document or a copy thereof;

(d) if it is in any language other than the language of the court, it shall have annexed to it a translation into that language made and certified by an officer of either of the courts or by some other person authorised in writing in that behalf by the Chief Justice; and

(e) if it is in a language which is not the mother tongue of the accused and that person does not understand the English language and is not represented by a legal practitioner, there shall be annexed to the copy served on that accused a translation into the language which is his or her mother tongue, or another language which he or she understands, made and certified by an officer of either of the courts or by some other person authorised in writing in that behalf by the Chief Justice.

(4) So much of any statement as is admitted in evidence by virtue of this Section shall, unless the court otherwise directs, be read aloud at the hearing and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

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

(6) A document required by this Section to be served on a person may be served:

(a) by delivering it to him or her or to his or her legal practitioner;

(b) by addressing it to him or her and leaving it at his or her usual or last known place of residence or place of business; or

(c) in the case of an incorporated company, corporation or other body corporate, by serving it on the secretary, local manager or other principal officer of the company, corporation or body or in such other manner as the court may direct.

147 Proof by formal admission

(1) Subject to the provisions of this Section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the prosecutor or accused and the admission by any party of any such fact under this Section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

(2) An admission under this Section:

(a) may be made before or at the proceedings;

(b) if made otherwise than in court, shall be in writing;

(c) if made in writing by an accused who is a natural person, shall purport to be signed by the person making it and, if so made by or on behalf of an accused which is a body corporate, shall purport to be signed by a director, manager, secretary or other officer of the body corporate;

(d) if made on behalf of an accused who is a natural person, shall be made by his or her legal practitioner, if he or she is represented, and by himself or herself if he or she is unrepresented; or

(e) if made at any stage before the trial by an accused who is a natural person, shall be approved and countersigned by a legal practitioner

representing him or her, whether at the time it was made or subsequently, before or at the proceedings in question.

(3) An admission under this Section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter including any appeal or retrial.

(4) An admission under this Section may with the leave of the court be withdrawn in the proceedings for the purpose of which it was made or any subsequent criminal proceedings relating to the same matter.

147A General admissibility of hearsay statement

(1) A hearsay statement is admissible in any proceeding, where the circumstance relating to the statement provides reasonable assurance of the reliability of the statement and the:
   (a) maker of the statement is unavailable to attend court to testify as a witness; or
   (b) court considers that undue expense and delay would be caused if the maker of the statement is required to attend as a witness to testify in court.

(2) For the purposes of this Section, ***'hearsay statement'*** means a written statement that:
   (a) was made by a person other than a witness; and
   (b) is offered in evidence at the proceeding to prove its contents.

(3) No hearsay statement may be offered in evidence by a party proposing to rely on the hearsay statement unless:
   (a) the party proposing to rely on the hearsay statement has given a notice at least 14 days before the date fixed for trial to the other party of the intention to rely on the statement;
   (b) the other party may object to the tendering of such evidence by giving a notice of objection to the party intending on relying on such statement; or
   (c) where there is an objection, the court shall have the residual discretion to admit such statement.

(4) In this Section, '***circumstance***', in relation to the statement by a person who is not a witness, includes:
   (a) the nature of the statement;
   (b) the contents of the statement;
   (c) the time of the making of the statement;
   (d) the reasonable credibility of the statement; and
   (e) any circumstance that relate to the accuracy of the observation of the person.

(5) For the purposes of this Section, a person is unavailable as a witness to attend court to testify in a proceeding, if he or she:
   (a) is deceased;
   (b) is outside the Republic and it is not reasonably practicable for him or her to attend court as a witness or tender evidence in person or through digital or electronic means including audio visual link;
   (c) is certified by a health practitioner that the person is unfit to give evidence due to age, physical or mental condition or impairment; or
   (d) with reasonable diligence, cannot be traced.

(6) Subsection (1) shall not apply to a witness, whose unavailability is caused or occasioned by the party, which is seeking to adduce such statement.

(7) The court shall have the residual discretion to give any weight to evidence capable of being adduced under this Section.

[s 147A insrt Act 11 of 2020 s 6, opn 4 June 2020]

148 Notice of alibi

(1) On a trial in the Supreme Court the accused shall not without the leave of the Court adduce evidence in support of an alibi unless, before the end of the prescribed period, he or she gives notice of particulars of the alibi.

(2) Without prejudice to subsection (1), on any such trial the accused shall not without the leave of the Court call any other person to give such evidence unless:

(a) the notice under that subsection includes the name and address of the witness or, if the name or address is not known to the accused at the time he or she gives the notice, any information in his or her possession which might be of material assistance in finding the witness;

(b) if the name or the address is not included in that notice, the Court is satisfied that the accused, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained;

(c) if the name or the address is not included in that notice but the accused subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness, he or she forthwith gives notice of the name, address or other information, as the case may be; and

(d) if the accused is notified by or on behalf of the prosecutor that the witness has not been traced by the name or at the address given, he or she forthwith gives notice of any such information which is then in his or her possession or, on subsequently receiving any such information, forthwith gives notice of it.

(3) The Court shall not refuse leave under this Section if it appears to the Court that the accused was not informed by the District Court of the requirements of this Section.

(4) Any evidence tendered to disprove an alibi may, subject to any directions by the Court as to the time it is to be given, be given before or after evidence is given in support of the alibi.

(5) Any notice purporting to be given under this Section on behalf of the accused by his or her legal practitioner shall, unless the contrary is proved, be deemed to be given with the authority of the accused.

(6) A notice under subsection (1) shall either be given in court in the District Court during, or at the end of, the preliminary inquiry or be given in writing to the prosecutor, or his or her legal practitioner, if any, and a notice under subsection (2)(c) or (d) shall be given in writing to the prosecutor or his or her legal practitioner, if any.

(7) A notice required by this Section to be given to the prosecutor or his or her legal practitioner may be given by delivering it to him or her, or by leaving it at his or her office.

(8) In this Section:

'evidence in support of an alibi' means evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he or she was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

'the prescribed period' means the period of 7 days from the date the information is filed; and

'the prosecutor', where the information has been filed by a public prosecutor, means the Director of Public Prosecutions.

[subs (8) am Act 20 of 2016 s 18, opn 12 May 2016]

149 Interpretation of evidence to accused

(1) Where any evidence is given in a language not understood by the accused and he or she is present in person, it shall be interpreted to him or her in open court in a language which he or she understands.

(2) Where documents are put in for the purpose of formal proof it shall be in the discretion of the court to interpret to the accused as much thereof as appears necessary.

[The next page is 281,861]

PART 5A — EVIDENCE BY AUDIO VISUAL LINK

[Pt 5A insrt Act 21 of 2020 s 4, opn 23 Oct 2020]

149A Testimony of witnesses in foreign jurisdiction

(1) A court shall have the jurisdiction to grant or make such orders as may be necessary to allow a witness in a foreign jurisdiction to tender exhibits or adduce other evidence or give such other testimony through audio visual link without the need for him or her to attend court in the Republic.

(2) For the purposes of subsection (1), a party to a cause or matter may make an application for consideration by the court.

(3) Where the court grants or makes an order under this Section, the witness:
(a) shall be able to identify or refer to any document, object or other matters of evidence if shown to him or her during the course of the trial; and
(b) may be examined in chief or cross examined by any other party or his or her legal representative.

(4) The witness may tender exhibits or adduce evidence in the same manner and form as he or she would have done had he or she attended court in the Republic.

(5) The court shall give the same weight to any evidence adduced under this Section in the same manner and form as it would have done had the evidence was adduced had the witness attended court in the Republic.

149B Interpreter

(1) For the purposes of a trial, a person qualified to be appointed as an interpreter may be appointed in any foreign jurisdiction to perform the duties and functions of an interpreter for a cause or matter to be tried in the Republic.

(2) An interpreter appointed under subsection (1), shall take oath or affirm, before the trial magistrate, Judge or any judicial officer through audio visual link prior to performing the duties and functions of an interpreter and in the presence of the parties and their legal representatives.

(3) An interpreter may perform the duties and functions of an interpreter from a foreign jurisdiction through an audio visual link.

149C Remand or serving prisoners

Where it may not be expedient to secure the attendance of a remand or serving prisoner to attend any proceedings, the court may order the prisoner to participate in such proceedings through audio visual link from the correctional centre.

149D Failure of audio visual link

Where an audio visual link fails during a proceeding, the court may adjourn the proceeding or make such other orders as may be appropriate.

149E Rules for the purposes of this Part

For the purposes of this Part, the Chief Justice may make rules under the *Naoero Court of Appeal Act 2018*, *Supreme Court Act 2018* or *District Court Act 2018* as may be necessary, to ensure a fair and expeditious disposal of any criminal cause or matter, where an interpreter or witness is unable to attend court in the Republic for the hearing of that cause or matter.

[s 149E am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 282,061]

[Pt 6 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

150 Non-attendance of complainant at hearing

(1) Where in any case which the District Court has jurisdiction to hear and determine the accused attends in obedience to the summons served upon him or her at the time and place appointed in the summons for the hearing of the case, or is brought before the court under arrest, then, if the complainant, having had notice of the time and place appointed for the hearing of the charge, does not attend, himself or herself or by his or her legal practitioner, the court shall dismiss the charge, unless for some reason it shall think it proper to adjourn the hearing of the case until some other date upon such terms as it shall think fit, in which event it may, pending that adjourned hearing, either admit the accused to bail or remand him or her to prison, or take such security for his or her attendance as the court shall think fit, or order him or her to attend without taking security.

(2) The expression ***"legal practitioner"*** in this Section and in Sections 153 and 155 shall in relation to a complainant be taken to include a public prosecutor and a police officer appearing and conducting a prosecution in pursuance of Section 48(3).

151 Court may proceed with hearing in absence of accused in certain cases

(1) Notwithstanding the provisions of Section 145, if an accused who has sent to the court a plea of guilty in writing or is charged with any offence for which upon conviction the maximum sentence which can be imposed is a fine not exceeding $200 or imprisonment, otherwise than in default of payment of a fine, for a period not exceeding 6 months or both such fine and imprisonment does not attend in the District Court at the time and place appointed in and by the summons or by any bond for his or her attendance that he or she may have entered into, and his or her personal attendance has not been dispensed with under Section 61, the court may, on being satisfied that the plea of guilty in writing is unequivocal or on proof of the proper service of the summons a reasonable time before, or on production of the bond, as the case may be, proceed to hear and determine the case in the absence of the accused or may adjourn the case and issue a warrant for the arrest of the accused in accordance with the provisions of Section 63.

(2) Notwithstanding the provisions of subsection (1), no person shall be tried in his or her absence unless he or she has consented thereto:

Provided that, where a person has been served with a summons containing a direction made under Section 61 for his or her personal attendance to be dispensed with and the summons is endorsed with a notice that, if he or she does not attend, he or she will be deemed to have consented to the trial taking place in his or her absence, he or she shall be deemed to have so consented.

152 Attendance of both parties

Where at the time appointed for the hearing of the case both the complainant, by himself or herself or by his or her legal practitioner if any, and the accused person attend before the District Court or if the complainant attends in the manner aforesaid and the personal attendance of the accused has been dispensed with under Section 61, the court shall, subject to the provisions of Section 154, proceed to hear the case.

153 Withdrawal of charge

(1) The prosecutor in any case which is before the District Court for trial may with the consent of the court at any time before a final order is passed in any case under this Part withdraw the charge.

(2) On any withdrawal as aforesaid:
- (a) where the withdrawal is made after the accused person is called upon to make his or her defence, the court shall acquit the accused; or
- (b) where the withdrawal is made before the accused person is called upon to make his or her defence, the court shall, subject to the provisions of Sections 158 and 201, in its discretion make one or other of the following orders:
  - (i) an order acquitting the accused; or
  - (ii) an order discharging the accused.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[50], opn 15 Apr 2011]

(3) An order discharging the accused under subsection (2)(b)(ii) shall not operate as a bar to subsequent proceedings against the accused on account of the same facts.

154 Adjournment in the District Court

(1) On the date fixed for the commencement or continuation of a trial, the Resident Magistrate may not allow an adjournment to commence or continue with the trial on the application of the prosecution, without any good cause or reason.

(2) For the purposes of subsection (1), ***'good cause or reason'*** may not include multiple applications for adjournment under subsection (1) by the prosecution.

(3) Where the Resident Magistrate is satisfied that good cause or reason is shown for adjournment, he or she may adjourn the trial as he or she deems appropriate.

(4) In adjourning a trial, the Resident Magistrate may:
- (a) where the accused person is on bail, extend the bail with or without varying the bail conditions;
- (b) where the accused person is remanded, extend the period of remand or where it is permissible, grant bail with or without any conditions;
- (c) where the accused person is a serving prisoner, issue an order for the prisoner to be brought to court at a later date; or
- (d) make any other orders as he or she deems fit.

(5) Where an application for an adjournment by the prosecution, on the day fixed for the commencement or continuation of a trial is dismissed, the Resident Magistrate shall:

(a) order the prosecution to proceed with the trial; and
(b) where the prosecution is unable to proceed with the trial, may order the accused person be discharged or acquitted.

[s 154 subst Act 11 of 2020 s 7, opn 4 June 2020]

155 Non-attendance of parties after adjournment

(1) Where at the time and place to which the trial or further trial of any criminal proceeding is adjourned by the District Court, the accused does not attend before the court, and he or she has consented, personally or by his or her legal practitioner if any, to the trial taking place in his or her absence, the court may, in its discretion proceed with the trial or further trial as if the accused were present, and if the complainant does not attend, himself or herself or by his or her legal practitioner, the court may dismiss the charge as the court shall think fit.

[Consequential amendment of s 118A insrt Act 40 of 2018 s 7, opn 18 Dec 2018]

(2) Where an accused who has not attended before the District Court at the time and place to which the trial, or further trial, of any criminal proceeding has been adjourned, has not consented to the trial taking place in his or her absence or the court has in its discretion not proceeded with the trial or further trial, the court may issue a warrant for his or her arrest and for him or her to be brought before the court and shall further adjourn the trial or further trial accordingly.

156 Conviction in absence of accused may be set aside

Where the District Court convicts any accused in his or her absence, it shall set aside such conviction upon being satisfied that his or her absence was from causes over which he or she had no control and that he or she had a probable defence on the merits.

157 Commencement of sentence passed in absence of accused

A sentence passed on a person under Section 151 or Section 155 shall be deemed to commence from the date of his or her arrest in execution of the committal warrant, and the person making the arrest shall endorse the date thereof on the back of the warrant.

158 Certain provisions relating to Supreme Court to apply to District Court

The provisions of Sections 187, 189, 189A, 190, 191A, 192, 193, 194, 195, 198, 201, 202, 203, 204, 205, 206, 207, 210, 211 and 212 shall apply *mutatis mutandis* to trials in the District Court as they do to trials in the Supreme Court.

[s 158 am Act 11 of 2020 s 8, opn 4 June 2020; Act 10 of 2021 s 4, opn 1 June 2021]

159 Limitation of time for summary trials in certain cases

Except where a longer time is specially allowed by any written law, no offence for which upon conviction the maximum sentence which may be imposed is one of imprisonment for a period not exceeding 6 months or a fine not exceeding $200 or both, whether or not such sentence may be accompanied by any order

of disqualification, shall be triable by any court, unless the charge or complaint relating to it is laid within 6 months from the time when the subject-matter of such charge or complaint arises.

160 Power to stop summary trial and transfer proceedings to the Supreme Court

(1) Where before or at any stage of a trial by the District Court before the accused is required to make a defence, it appears to the court that the case is one which ought to be tried by the Supreme Court or if before the commencement of the trial an application in that behalf is made by the prosecutor or the accused that it shall be so tried, the District Court may, if it thinks, not proceed with the trial but in lieu thereof transfer the proceedings to the Supreme Court.

(2) No appeal shall lie from a decision of the District Court upon any application made under this Section.

[s 160 subst Act 20 of 2016 s 19, opn 12 May 2016]

161 Committal to Supreme Court for sentence

(1) Notwithstanding the provisions of Sections 158, 190, 194 and 207 but subject to the provisions of this Section, where an accused is tried by the District Court and convicted of any offence and, on obtaining information as to his or her character and antecedents, the District Court is of opinion that they are such that a greater sentence should be imposed in respect of the offence than it has power to impose, it may, in lieu of dealing with him or her in any manner in which it has power to deal with him or her, commit him or her in custody or on bail to the Supreme Court for sentence in accordance with the following provisions of this Section.

(2) Where the accused is committed for sentence under this Section, the following provisions shall have effect, that is to say:

(a) the Supreme Court shall examine a copy of the record of the proceedings in the District Court and may itself inquire further into the circumstances of the case other than the finding of guilt and it shall have power to deal with the accused in any manner in which he or she could have been dealt with if he or she had been convicted by the Supreme Court;

(b) if dealt with by the Supreme Court, the accused shall have the same right of appeal against his or her conviction, if any, as if he or she had been convicted and sentenced by the District Court and shall have the same, but no greater right of appeal, if any, against his or her sentence as he or she would have had if he or she had been convicted and sentenced by the Supreme Court; and

(c) the Supreme Court, after hearing a public prosecutor representing the Republic if he or she desires to be heard, may, instead of dealing with the accused under subsection (2)(a), remit him or her, in custody or on bail, to the District Court for sentence and thereafter the accused shall be dealt with by that court and shall have the same right of appeal, if any, as he or she would have had if no such committal to the Supreme Court had been made.

[The next page is 282,261]

PART 7 — TRANSFER OF ACCUSED PERSONS TO THE SUPREME COURT FOR TRIAL

[Pt 7 heading subst Act 20 of 2016 s 20, opn 12 May 2016; renum Act 21 of 2020 s 5, opn 23 Oct 2020]

162 District Court to transfer charges and proceedings to the Supreme Court

(1) Where any charge has been brought against a person of an offence not triable by the District Court or as to which the District Court is of the opinion that it ought to be tried by the Supreme Court, the District Court may transfer the charge and proceedings to the Supreme Court.

(2) An accused person may not be subject to a preliminary inquiry or to committal proceedings prior to the transfer of that person's case and proceedings to the Supreme Court.

[s 162 subst Act 27 of 2016 s 4, opn 9 June 2016]

163 Charge to be read over to accused

[s 163 rep Act 20 of 2016 s 21, opn 12 May 2016]

164 Depositions

[s 164 rep Act 20 of 2016 s 21, opn 12 May 2016]

165 Variance between evidence and charge

[s 165 rep Act 20 of 2016 s 21, opn 12 May 2016]

166 Written statements before the District Court

[s 166 rep Act 20 of 2016 s 21, opn 12 May 2016]

167 Adjournment

[s 167 rep Act 20 of 2016 s 21, opn 12 May 2016]

168 Provisions as to taking statement or evidence of accused person

[s 168 rep Act 20 of 2016 s 21, opn 12 May 2016]

169 Evidence and address in defence

[s 169 rep Act 20 of 2016 s 21, opn 12 May 2016]

170 Committal for trial

[s 170 rep Act 20 of 2016 s 21, opn 12 May 2016]

171 Discharge of accused

[s 171 rep Act 20 of 2016 s 21, opn 12 May 2016]

172 Power to apply to Supreme Court for committal in certain cases where accused person discharged

[s 172 rep Act 20 of 2016 s 21, opn 12 May 2016]

173 Summary adjudication

[s 173 rep Act 20 of 2016 s 21, opn 12 May 2016]

174 Accused entitled to copy of depositions

[s 174 rep Act 20 of 2016 s 21, opn 12 May 2016]

175 Taking the depositions of persons dangerously ill

[s 175 rep Act 20 of 2016 s 21, opn 12 May 2016]

176 Disclosure and notice to be given

(1) The prosecution shall provide the disclosure documents, witness statements, expert reports, photographs and other disclosure documents to the accused person as soon as practicable after the accused person is charged and appears in court in the first instance.

(2) The prosecutor shall, 14 days before the trial commences, notify and provide to the accused person or his or her legal representative:
   (a) a list of names and number of witnesses in subsection (1), that the prosecution will require to testify in the trial; and
   (b) a list of names and number of witnesses in subsection (1), that the prosecution will not require to testify in the trial.

(3) The prosecution may be permitted to tender as exhibits in a trial an expert report, forensic accounts, photographs, maps or plans drawn by surveyors, electronically or digitally stored or transmitted data or record and such other professional reports without requiring the maker of such report, photographer or the keeper of the records to personally appear in court to testify, provided:
   (a) a notice in the prescribed form is served to the accused person or his or her legal representative 21 days before the date fixed for the trial; and
   (b) the accused person or his or her legal representative did not issue a notice in the prescribed form to the prosecution requiring one or more of the persons to be available for cross-examination 14 days before the commencement or continuation of the trial.

(4) The evidence intended to be tendered in subsection (3), shall be for the purposes of establishing:
   (a) the existence of such evidence; and
   (b) the contents of such evidence,

   but the weight of such evidence shall be in the residual discretion of the court.

(5) Notwithstanding subsection (3), the court has the discretion to allow admission of any evidence as it deems fit.

[s 176 insrt Act 11 of 2020 s 9, opn 4 June 2020]

177 Transmission of statements

[s 177 rep Act 20 of 2016 s 21, opn 12 May 2016]

178 Use of statement in evidence

[s 178 rep Act 20 of 2016 s 21, opn 12 May 2016]

179 Transmission of records to Supreme Court and Director of Public Prosecutions

In the event of a transfer for trial or sentencing in the Supreme Court, the charge, the depositions, the statement of the accused person, the recognizances of bail, if any, and any documents, matters or things which would assist the trial or sentencing in the Supreme Court, shall be transmitted without delay by the Deputy Registrar to the Registrar and a copy of the depositions and statements certified by Registrar shall be supplied to the Director of Public Prosecutions by the Registrar.

[s 179 subst Act 20 of 2016 s 22, opn 12 May 2016]

180 Filing of an information

(1) After the receipt of the certified copy of the depositions and statements, the Director of Public Prosecutions shall, unless he or she enters a *nolle prosequi*, draw up and sign an information in accordance with the provisions of this Act and file it in the registry of the Supreme Court.

(2) In any information under this Section, the Director of Public Prosecutions may charge the accused with any offence which, in his or her opinion, is disclosed by the depositions either in addition to, or in substitution for, the offence upon which the accused has been committed for trial.

181 Return of depositions for trial in the District Court

(1) Where, after an information has been filed and prior to the trial, a Judge is of the opinion, upon perusing the depositions, statements and exhibits, that the case is one which is within the jurisdiction of, and may suitably be tried in, the District Court, he or she may, of his or her own motion or upon the application of any party, cause the depositions, statements and exhibits to be returned to that court and the information to the Director of Public Prosecutions and order that the accused be tried in the District Court:

Provided that no order may be made under the provisions of this subsection until the Director of Public Prosecutions and the accused or his or her legal practitioner, if any, have been afforded an opportunity by the judge to state to him or her orally or in writing any reasons why such an order should not be made.

(2) Where an order is made under subsection (1), the District Court shall forthwith take such steps as may be necessary in accordance with the provisions of this Act to compel the accused to attend before it and shall try him or her as directed:

And provided further that, where an accused has been admitted to bail to await his or her trial, he or she shall be deemed to have been bound thereby to attend before the District Court.

[subs (2) am Act 20 of 2016 s 23, opn 12 May 2016]

182 Notice of trial

Where an information has been filed in the registry of the Supreme Court, the Registrar shall, unless a Judge makes an order under Section 181(1) for the depositions, statements and exhibits to be returned to the District Court:

(a) endorse on, or annex to, every information filed as aforesaid, and every copy thereof delivered to the police officer for its service, a notice of trial,

which notice shall specify the particular sitting of the Supreme Court at which the accused is to be tried on that information and shall be in the following form:

"A.B.

Take notice that you will be tried on the information whereof this is a true copy at the sitting of the Supreme Court to be held at on *[date]*."; and

(b) deliver or cause to be delivered to the police officer serving the information a copy thereof with the notice of trial endorsed thereon or annexed thereto and, if there are more accused committed for trial than one, then as many copies as there are such accused;

and the police officer to whom a copy of the information is so delivered shall, as soon as possible after having received it and not less than 3 days before the day specified in the notice of trial as the date of the trial, by himself or herself or some other officer, deliver to every accused named in the information a copy of the information and notice and explain to him or her the nature thereof and where any accused has been admitted to bail and cannot readily be found, he or she shall leave a copy of the information and notice of trial with an adult person normally residing in the same dwelling-house as the accused for him or her and, if none such can be found, shall affix the copy and notice to the outer or principal door of the dwelling-house of the accused:

Provided always that nothing herein contained shall prevent a person committed for trial and present in court at the opening of or during any sitting of the Supreme Court from being tried thereat, if he or she shall consent to be so tried and no objection is made thereto on the part of the Director of Public Prosecutions.

[s 182 am Act 8 of 2011 s 12 and Sch 1[50], opn 15 Apr 2011]

183 Return of service

An officer serving a copy of an information and the notice of trial shall forthwith make to the Registrar a return of the mode of service thereof and the provisions of Section 60 shall apply *mutatis mutandis* to proof of the service.

184 Postponement of trial

It shall be lawful for the Supreme Court or a Judge upon the application of the prosecutor or the accused, if the court considers that there is sufficient cause for the delay, to postpone the trial of any accused person to any subsequent sitting of the court.

185 Information by Director of Public Prosecutions

All information drawn up in pursuance of Section 180 shall be in the name of and, subject to the provisions of Section 47, signed by the Director of Public Prosecutions.

186 Form of information

Every information shall bear the date of the day when it is signed and, with such modifications as shall be necessary to adapt it to the circumstances of each case, shall be in the form prescribed in the Schedule.

186A Right to be tried

(1) A person committed for trial before any court for any indictable offence, may make an application in open court at any time during the first sitting of the court held after his or her committal to be brought to his or her trial.

(2) Where an information is not presented against him or her at some time during those sittings, the court may, upon motion made on his or her behalf on the last day of such sittings, admit him or her to bail, and is required so to do, unless it appears upon oath that some material evidence for the prosecution could not be produced at those sittings.

(3) A person committed as aforesaid, who has made such an application to be brought to his or her trial, and who is not brought to trial at the second sitting after his or her committal for trial, is entitled to be discharged.

[s 186A insrt Act 18 of 2016 s 287 and Sch 2 clause 30, opn 12 May 2016]

186B On adjournment of trial accused may be remanded to another court having jurisdiction

Where the trial of a person charged with an offence on information is adjourned, the court may direct the trial to be held either at a later sitting of the same court or before some other court of competent jurisdiction, and may remand the accused person accordingly, and may, in a proper case, admit him or her to bail, or enlarge his or her bail if he or she has already been admitted to bail, and may enlarge the recognizances of the witnesses. In any such case, the information and other proceedings are to be transmitted to the proper officer of the court to which the accused person is so remanded, and that court has the same jurisdiction to try him or her as if he or she had been originally committed to be tried before it and the accused person is bound to attend to be tried, and the witnesses are bound to attend to give evidence, at the time and place to which the trial is adjourned, without entering into any fresh recognizances for that purpose, in the same manner as if they had respectively been originally bound by their recognizances to appear and to attend and give evidence at the time and place to which the trial is adjourned.

[s 186B insrt Act 18 of 2016 s 287 and Sch 2 clause 32, opn 12 May 2016]

[The next page is 282,461]

[Pt 8 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

187 Practice of Supreme Court in its criminal jurisdiction

Subject to the express provisions of this Act, the practice of the Supreme Court in its criminal jurisdiction shall be such as the Court directs.

188 Trials before Supreme Court to be by a Judge alone

Trials before the Supreme Court shall be by a Judge alone.

189 Accused absent

Where on the day and at the time set for the trial of any information the accused is not present in Court, the Court shall adjourn the trial and may, unless the accused is in lawful custody, issue a warrant for him or her to be arrested and brought before the Court:

Provided that where the information charges more than one person and one or more of those persons is present in Court, the Court may, in its discretion, either adjourn the trial of all the accused or proceed with the trial of those of them who are present and order that the accused who is absent be tried separately.

189A Accused avoiding trial

Where:

(a) an accused person on multiple occasions, fails to attend Court on the day fixed for the trial, without any reasonable excuse; and

(b) as a consequence, the Court adjourns the trial,

the Court may remand the accused person to ensure his or her attendance for the trial until such time it is necessary or the final determination of the cause or matter.

[s 189A insrt Act 11 of 2020 s 10, opn 4 June 2020]

190 Accused to be called upon to plead

(1) Where the accused is present in Court, the substance of the information shall be stated to him or her by the Court and he or she shall be asked whether he or she admits or denies the truth of the information.

(2) Where the accused admits the truth of the information, his or her admission shall be recorded as nearly as possible in the words used by him or her or in an English translation of those words and the prosecutor shall then state the details of the offence alleged.

(3) Where the accused admits the truth of the details of the offence stated by the prosecutor and they constitute the offence charged, the Court shall record a finding that he or she is guilty of that offence and if he or she denies the truth of any of those details, the Court shall record that he or she has pleaded "not guilty".

(4) Where the Court has recorded a finding under this Section that an accused is guilty of the offence charged, it shall, after hearing him or her, or his or her legal practitioner if any, as to any mitigating circumstnaces and any

evidence thereof which may be advanced, either convict him or her and pass sentence on, or make an order against, him or her in accordance with the law or, if authorised by any written law to do so, discharge him or her without proceeding to conviction.

(5) Where the accused does not admit the truth of the information, the Court shall record a plea of "not guilty" and proceed to hear the case as hereinafter provided in this Part.

(6) Where the accused refuses to plead, the Court shall record that fact and he or she shall be deemed not to admit the truth of the information and to have pleaded "not guilty".

(7) Where a company, corporation or body corporate is charged upon an information with any offence, it may enter a plea by its representative and if either the company, corporation or body corporate does not attend by representative or, though it does so attend, fails to enter any plea, the Court shall record this fact and the company, corporation or body corporate shall be deemed to have entered a plea of "not guilty".

(8) A representative for the purposes of this Section need not be appointed under the seal of the company, corporation or body corporate and a statement in writing purporting to be signed by a director, manager, secretary or other principal officer of the company, corporation or body corporate, or by a person, by whatsoever name called, having, or being one of the persons having, the management of its affairs, to the effect that the person named in the statement has been appointed as the representative of the company, corporation or body corporate for the purposes of this Section shall be admissible without, further proof as *prima facie* evidence that that person has been so appointed.

190A Motion to quash information

The accused person may before pleading apply to the Court to quash the information on the ground that it is calculated to prejudice or embarrass him or her in his or her defence to the charge, or that it is formally defective.

Upon such motion, the Court may quash the information or may order it to be amended in such manner as the Court thinks just, or may refuse the motion.

[s 190A insrt Act 18 of 2016 s 287 and Sch 2 clause 34, opn 12 May 2016]

191 Orders for amendment of information, separate trial, and adjournment of trial

[s 191 rep Act 11 of 2020 s 11, opn 4 June 2020]

191A Amendment of information, adjournment of trial and separate trial

(1) The prosecution may apply to the Court to amend an information at any time before the close of the prosecution's case.

(2) An application under subsection (1), may be made orally or in writing and stating the particulars of the proposed amendment.

(3) In considering an application under subsection (1), the Court may:
(a) grant the application;
(b) dismiss the application;

(c) after granting the application, adjourn the proceedings for such time as it deems appropriate for the accused person to prepare his or her defence; or

(d) make such other orders as the Court deems necessary.

(4) Where the Court orders for an information to be amended:

(a) the amended information shall be read to the accused person; and

(b) the accused person shall plead to the amended information.

(5) Where the Court grants the amendment, the accused person or his or her legal representative may apply to the Court for an adjournment to allow the accused person to prepare his or her defence.

(6) Where the original or amended information contains more than one count, on an application by the prosecution or accused person, the Court may order that any count be tried separately if the Court deems that:

(a) an accused person may be prejudiced because he or she is charged with more than one count in such information; or

(b) a trial with another accused person will prejudice the fair trial of the accused person.

(7) Where an order for a separate trial is made under subsection (6), the procedure shall be the same as if the count had been set out in a separate information.

[s 191A insrt Act 10 of 2021 s 5, opn 1 June 2021]

192 Quashing of information

Where any information does not state, and cannot by any alteration authorised by the Section 191A be made to state, any offence, it shall be quashed and the accused shall be discharged.

193 Procedure in case of previous convictions

Where an information contains a count charging an accused person with having been previously convicted of any offence, the procedure shall, subject to Section 106(e)(ii) and (iii), be as follows:

(a) the part of the information alleging the previous conviction shall not be read out in Court nor shall the accused be asked whether he or she has been previously convicted as alleged in the information, unless and until he or she has either pleaded guilty to or been convicted of the subsequent offence;

(b) if he or she pleads guilty to or is convicted of the subsequent offence, he or she shall then be asked whether he or she has been previously convicted as alleged in the information; and

(c) if he or she answers that he or she has been previously so convicted, the Court may proceed to pass sentence on him or her accordingly but, if he or she denies that he or she has been previously so convicted or refuses to, or does not, answer such question, the Court and the assessors shall then hear evidence concerning that alleged previous conviction:

Provided, however, that, if upon the trial for the subsequent offence evidence of the previous offence is given pursuant to Section 106(e)(ii) or (iii) before a finding is made in respect of the subsequent offence, the Court shall decide the issue concerning the previous conviction at the same time that it decides the issues concerning the subsequent offence.

194 Plea of guilty to other offence

Where an accused is tried upon an information for any offence and can lawfully be convicted on the trial of that information of some other offence not charged in that information, he or she may plead "not guilty" of the offence charged in the information but guilty of any such other offence and Section 190(2), (3) and (4) shall apply *mutatis mutandis* and, if the prosecutor consents, the Court may find the accused guilty of that other offence and, if the Court does so, it shall acquit him or her of the offence charged.

195 Proceedings after plea of "not guilty"

Where the accused pleads "not guilty", or if a plea of "not guilty" is recorded in accordance with the provisions of Section 190, the Court shall proceed to try the case. The prosecutor or the legal practitioner conducting the prosecution, shall present the case against the accused and shall call witnesses and adduce evidence in support of the information:

Provided that, if both the prosecutor and the accused, or their respective legal practitioners on their behalf, consent thereto, the Court may proceed to try the case in respect of some only of the offences charged in the information and defer trying the case in respect of the other offences until after the completion of the trial of the first-mentioned offences.

196 Adjournment in the Supreme Court

(1) On the date fixed for the commencement or continuation of a trial, a Judge may not allow an adjournment to commence or continue with the trial on the application of the prosecution, without any good cause or reason.

(2) For the purposes of subsection (1), '***good cause or reason***' may not include multiple applications for adjournment under subsection (1) by the prosecution.

(3) Where the Judge is satisfied that good cause or reason is shown for adjournment, he or she may adjourn the trial as he or she deems appropriate.

(4) In adjourning a trial, the Judge may:
  (a) where the accused person is on bail, extend the bail with or without varying the bail conditions;
  (b) where the accused person is remanded, extend the period of remand or where it is permissible, grant bail with or without any conditions;
  (c) where the accused person is a serving prisoner, issue an order for the prisoner to be brought to Court at a later date; or
  (d) make any other orders as he or she deems fit.

(5) Where an application for an adjournment by the prosecution, on the day fixed for the commencement or continuation of a trial is dismissed, the Judge shall:
  (a) order the prosecution to proceed with the trial; or
  (b) where the prosecution is unable to proceed with the trial, may order the accused person be discharged or acquitted.

[s 196 subst Act 11 of 2020 s 12, opn 4 June 2020]

197 Additional witnesses for prosecution

(1) No witness whose evidence or written statement has not been received at

the preliminary inquiry shall be called by the prosecution at any trial, unless the accused or, if he or she is represented, his or her legal practitioner has received reasonable notice in writing of the intention to call that witness or the prosecutor has sought to tender in evidence under Section 146, his or her written statement and the accused, or his or her legal practitioner if any, has served on him or her a notice objecting to the statement being tendered in evidence under that Section.

(2) A notice under this Section of the intention to call a witness shall state his or her name and address and the substance of the evidence which it is believed that he or she will give. The Court shall determine whether the length of notice given was reasonable, regard being had to the time when and the circumstances under which the prosecution became acquainted with the nature of the evidence which the witness could give and determined to call him or her as a witness.

(3) Nothing in this Section shall affect the admission of evidence lawfully tendered at the trial under Section 146.

198 Cross-examination of witnesses for the prosecution

The witnesses called for the prosecution shall be subject to cross-examination by the accused, or his or her legal practitioner if any, and to re-examination by the prosecutor or the legal practitioner conducting the prosecution, if the accused is not represented by a legal practitioner, the Court shall, at the close of the examination-in-chief of every such witness, ask the accused whether he or she wishes to put any questions to that witness and shall record his or her answer.

199 Depositions may be read as evidence in certain cases

The statements of a person may, if the conditions hereinafter set out are satisfied, without further proof be read as evidence at the trial of the person who was charged with that offence, whether at the trial he or she is charged with that offence or with any other offence disclosed by the statements. The conditions hereinbefore referred to are the following:

(a) the statements shall be either:

(i) the statements of a witness who is proved at the trial to the satisfaction of the Judge to be absent from the Republic or dead or insane, or so ill as not to be able to give evidence at the trial, or to be kept out of the way by means of the procurement of the accused or on his or her behalf, or to be unable to attend for any other sufficient cause; or

(ii) statements which both the prosecutor, or the legal practitioner, if any, conducting the prosecution, and the accused, or his or her legal practitioner if any, consent to being read as evidence; and

(b) the statements shall purport to be certified by the magistrate who transferred the matter to the Supreme Court:

Provided that the provisions of this Section shall not have effect in any case in which it is proved that the statements was not in fact certified by the magistrate by whom it purports to have been certified.

[s 199 am Act 20 of 2016 s 24, opn 12 May 2016]

200 Evidence or statement of accused at preliminary inquiry

[s 200 rep Act 20 of 2016 s 25, opn 12 May 2016]

201 Close of case for prosecution

Where the evidence of the witnesses for the prosecution has been concluded and any written statements and depositions properly tendered in support of the prosecution case have been admitted, and the evidence or statement, if any, of the accused taken in the preliminary inquiry has, if the prosecutor wishes to tender it, been tendered in evidence, the court:

(a) if it considers that, after hearing, if necessary, any arguments which the prosecutor or the legal practitioner conducting the prosecution and the accused, or his or her legal practitioner if any, may wish to submit, that a case is not made out against the accused, or anyone of several accused, sufficiently to require him or her to make a defence in respect of the whole information or any count thereof, shall dismiss the case in respect of, and acquit that accused as to, the whole of the information or that count, as the case may be; but

(b) if it considers that a case is made out against the accused or any one or more of several accused in respect of any offence charged or any other offence of which he or she may lawfully be convicted on the trial of that offence, shall inform every such accused of his or her right to address the court, either personally or by his or her legal practitioner, if any, and to give evidence on his or her own behalf or to make an unsworn statement, or to refrain from doing either of these things and to call witnesses, or tender statements under Section 146, in his or her defence; and in all cases the court shall require him or her, or his or her legal practitioner if any, to state whether he or she intends to call any witnesses as to fact other than the accused himself or herself. If the accused says that he or she does not intend to give evidence or make an unsworn statement or to adduce evidence, then the prosecutor, or the legal practitioner conducting the prosecution, may sum up the case against him or her. If the accused says that he or she intends to give evidence or make an unsworn statement, or to adduce evidence, the court shall call upon him or her to enter upon his or her defence.

202 The defence

The accused, or his or her legal practitioner if any, may open his or her case, suiting the facts or law on which he or she intends to rely and making such comments as he or she thinks necessary on the evidence for the prosecution. The accused may then give evidence or make an unsworn statement on his or her own behalf and he or she, or his or her legal practitioner if any, may examine his or her witnesses, if any, and after their cross-examination, re-examine them, and may tender written statements in accordance with Section 146. At the close of the accused's case, he or she or his or her legal practitioner if any, may sum up his or her case.

203 Additional witnesses for the defence

The accused shall, subject to the provisions of Section 148, be allowed to call any witness in attendance who can give relevant evidence, whether or not that

witness gave evidence at the preliminary inquiry. If he or she apprehends that a person whom he or she wishes to call as a witness will not attend the trial voluntarily, he or she shall be entitled to apply for the issue of process to compel his or her attendance:

Provided that no accused shall be entitled to any adjournment to secure the attendance of any witness unless he or she shows that he or she could not have taken earlier steps to obtain, or by reasonable diligence have obtained, the presence of the witness.

204 Evidence in reply

Where evidence is adduced by the accused, or by his or her legal practitioner, in his or her defence introducing new matter which the prosecutor, or the legal practitioner conducting the prosecution, could not reasonably have foreseen, the court may allow the prosecutor, or the legal practitioner conducting the prosecution, to adduce evidence in reply to rebut that evidence.

205 Closing addresses where accused adduces no evidence

Where no evidence is adduced by or on behalf of any accused and the court considers that there is evidence that he or she committed any offence charged in the information or any other offence of which he or she can lawfully be convicted on the trial of that offence, the prosecutor, or the legal practitioner conducting the prosecution, shall be entitled to sum up the case against that accused immediately all the evidence in the case has been given and the accused, personally or by his or her legal practitioner if any, shall then be entitled to address the Court on his or her own behalf.

206 Closing addresses where accused adduces evidence

Where any accused, or his or her legal practitioner if any, adduces any evidence, other than evidence given by the accused person himself or herself, he or she, or his or her legal practitioner if any, shall be entitled to sum up the case for the defence immediately after all the evidence in the case has been given and the prosecutor, or the legal practitioner conducting the prosecution, shall be entitled to reply and to sum up the case against that accused.

207 The judgment

The Court, having received all the evidence adduced by the parties and any other evidence properly admitted and having heard the addresses, if any, of the parties or their legal practitioners, shall, in respect of every offence charged in the information, either:

(a) find the accused guilty of that offence, or of any other offence of which he or she can lawfully be convicted on the information, and, after making such inquiry as it thinks fit as to the accused's character and after hearing the accused or his or her legal practitioner, if any, as to any mitigating circumstances, and any evidence thereof which may be adduced, either convict him or her and pass sentence on, or make an order against him or her in accordance with the law or, if authorised to do under any writeen law, discharge him or her without proceeding to conviction; or

(b) find him or her not guilty and acquit him or her:

Provided that, where, with the consent of the prosecutor and the accused or of their respective legal practitioners on their behalf, only some of the offences charged in an information have been tried, the provisions of this Section shall apply in respect of those offences only.

208 Power to reserve decision on question raised at trial

The Supreme Court may reserve the giving of its final decision on any question raised at the trial of a person for any offence and its decision whenever given shall be deemed to have been given during the sittings in which the trial was held.

209 Power to reserve decision on question arising in the course of trial

(1) Where a person has, in a trial before the Supreme Court, been convicted of an offence, the Judge may reserve for further consideration any question which has arisen in the course of the trial and the determination of which would affect the event of the trial.

(2) Where the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to prison or, if the Judge thinks fit, be admitted to bail and upon such further consideration of the question so reserved the Judge may affirm or quash the conviction and shall be deemed to have done so during the sittings in which the trial was held.

210 Objections cured by verdict

No judgment shall be stayed or reserved on the ground of any objection which if made after the information was read over to the accused, or during the trial, might have been cured by the Court, nor for any informality in swearing the witnesses or any of them.

211 Evidence, etc, admissible after finding of guilt

(1) Where the Court has found any accused guilty, it may, before or after conviction, receive such evidence as it thinks fit, in order to inform itself as to the sentence or order most appropriate to the case.

(2) Where the Court has found any accused guilty of any offence, it may, if it thinks fit, with his or her consent and the consent of the prosecutor take into consideration in deciding what sentence or order is most appropriate in the case any other untried offence of a like character which the accused admits having committed and, where the accused is convicted of several offences, the Court shall note on the record of the proceedings the count in respect of which any such untried offence is taken into account.

(3) Where under subsection (2), any untried offence has been taken into account by the Court:

(a) the accused shall not be liable to be tried or punished thereafter in any proceedings for that offence or for any other offence constituted entirely by all or any of the facts constituting that offence:

Provided that, where on appeal the accused's conviction for the offence in respect of which the untried offence has been taken into account is quashed, he or she shall be liable to be tried for that untried offence but evidence of his or her admission of that offence to the Court, or to a

person with a view to his or her admitting it in order that it might be taken into account in those proceedings, shall not be admissible except at the request, or with the consent, of the accused; and

(b) for the purpose of Sections 125 and 127, the accused shall be deemed to have been convicted of that untried offence.

212 Drawing up of conviction, sentence or order

(1) A conviction, sentence or order under Section 190, Section 194 or Section 207 shall, if required, be afterwards drawn up and shall be certified by the Registrar.

(2) A copy of a conviction, sentence of order under Section 190, Section 194 or Section 207 purporting to be certified by the Registrar may be tendered as evidence in any proceedings in which it is relevant and shall *prima facie* be proof of that conviction, sentence or order.

212A Incapacity of Judge

This Section applies if the presiding Judge becomes incapable of proceeding with the trial.

In any such case the accused person shall remain in custody, and may be again put on his or her trial. But he or she has the same rights with respect to admission to bail as upon an original committal for trial for the offence with which he or she is charged, and any justice may, in a proper case, admit him or her to bail accordingly.

[s 212A insrt Act 18 of 2016 s 287 and Sch 2 clause 36, opn 12 May 2016]

[The next page is 282,661]

[Pt 9 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

213 Power to issue directions of the nature of habeas corpus

(1) The Supreme Court may, where it thinks fit, direct:

(a) that a person within the Republic be brought before the Court to be dealt with according to law;

(b) that a person illegally or improperly detained in public or private custody within the Republic be set at liberty; and

(c) that any prisoner detained in any prison be brought before any court to be there examined as a witness in any matter pending or to be inquired into in that court.

(2) The Chief Justice may from time to time make rules to regulate the procedure in cases under this Section.

214 Power of the Supreme Court to issue writs

(1) The Supreme Court may in the exercise of its criminal jurisdiction issue any writ which may in similar circumstances for the time being be issued by the Crown Court in England.

(2) The Chief Justice may from time to time make rules to regulate the procedure in cases under this Section.

215 Persons before whom affidavits may be sworn

Affidavits and affirmations to be used before the Supreme Court in proceedings under this Act may be sworn and affirmed before a Judge, a magistrate, the Registrar or any of his or her deputies or any Commissioner for Oaths.

216 Copies of proceedings

Where a person affected by any judgment or order passed or made in any proceedings under this Act, desires to have a copy of the judgment or order or of any deposition or other part of the record, he or she shall on applying for the copy be furnished therewith provided he or she pays the prescribed fee, unless a Judge, a magistrate or the Registrar for some special reason thinks fit to direct that it be furnished free of cost.

217 Forms

Such forms as the Chief Justice may, from time to time prescribe by rules, with such variation as the circumstances of each case may require, may be used for the respective purposes therein mentioned and, if used, shall be sufficient. In the absence of such rules or of provisions for any form in such rules as are made, the forms in use at the commencement of this Act may continue to be used until other provision is made by such rules.

218 Expenses of witnesses, etc

Subject to any rules which may be made by the Chief Justice, any court may order payment by the Government of the reasonable expenses of any

complainant or witness attending before that court for the purposes of any inquiry, trial or other proceeding under this Act, and any such payment shall be made from, and be a charge upon, the Treasury Fund.

218A Saving of civil remedies

Except when expressly so provided, the prosecution or conviction of a person for an offence does not affect any civil remedy which a person aggrieved by the offence may have against the offender.

[s 218A insrt Act 18 of 2016 s 287 and Sch 2 clause 49, opn 12 May 2016]

[The next page is 282,861]

PART 10 — REPEAL, INTERIM PROVISIONS AND SAVINGS

[Pt 10 renum Act 21 of 2020 s 5, opn 23 Oct 2020]

219 Repeal

The *Judiciary Ordinance 1957–1967* and the *Criminal Procedure Ordinance 1957–1966* are hereby repealed.

220 Cessation of application of certain adopted laws

(1) The *Criminal Procedure Ordinance of 1889* of the Territory of Papua shall, from the commencement of this Act, cease to apply to or have effect in Naoero.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[49], opn 15 Apr 2011; Act 18 of 2016 s 287 and Sch 2 clause 64, opn 12 May 2016; Act 21 of 2026 s 5, opn 12 May 2026]

(2) The Third Schedule of the *Laws Repeal and Adopting Ordinance 1922–1967* is amended by deleting therefrom the *Criminal Procedure Ordinance of 1889*.

221 Interim provisions

Where before the commencement of this Act any criminal cause has been commenced in any court:

(a) if the trial of that cause has not commenced, or if it has commenced before the District Court but that court has no jurisdiction under this Act to try it, it shall be dealt with by the District Court as though it had been freshly commenced under this Act; and

(b) if the trial of that cause has been commenced in the Supreme Court or is a cause which the District Court has jurisdiction under this Act to try and it has been commenced in the District Court, the trial shall be completed by the court in which it has been commenced, but subject to the provisions of this Act.

222 Savings

Notwithstanding the provisions of Sections 219 and 220, every order of a court lawfully made, and every summons, warrant and other process of any court lawfully issued, in Naoero in exercise of such court's criminal jurisdiction before the commencement of this Act shall continue to have full force and effect as though the written law under which it was made or issued were still in force in the Republic.

[s 222 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 283,061]

SCHEDULE

[Sections 93 and 182]

FORMS RELATING TO INFORMATION AND CHARGES

PART 1 — TITLES

[Pt 1 am Act 21 of 2026 s 5, opn 12 May 2026]

No 1 - In the Supreme Court:
In the Supreme Court of Naoero
The Republic against A.B. (and C.D.)

No 2 - In the District Court:
In the District Court of Naoero
The Republic against A.B. (and C.D.)

PART 2 — INFORMATION

[Pt 2 am Act 8 of 2011 s 12 and Sch 1[50], opn 15 Apr 2011; Act 21 of 2026 s 5, opn 12 May 2026]

At the sessions to be held at Yaren on *[date]*. Y.Z., Director of Public Prosecutions for the Republic of Naoero (W.X., a public prosecutor duly authorised by the Director of Public Prosecutions to prosecute for the Republic in this behalf) informs the Court that A.B. (and C.D.) did commit the offence of:

(STATE THE OFFENCE ALLEGED AND THE PROVISION OF THE WRITTEN LAW CONTRAVENED OR, IF APPROPRIATE, THAT IT IS CONTRARY TO THE COMMON LAW)

In that he or she (they) did, on *[date]*, at of in Naoero (in the territorial waters of Naoero) (RECITE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 93 OF THIS ACT THE ACT OR OMISSION ALLEGED TO CONSTITUTE THE OFFENCE)

(To be signed) Y. Z. Director of Public Prosecutions OR W.X. Public Prosecutor

PART 3 — CHARGE

[Pt 3 am Act 8 of 2011 s 12 and Sch 1[50], opn 15 Apr 2011; Act 21 of 2026 s 5, opn 12 May 2026]

A.B. (and C.D.) is (are) charged that he or she (they) did commit the offence of:

(STATE THE OFFENCE ALLEGED AND THE PROVISION OF THE WRITTEN LAW CONTRAVENED OR, IF APPROPRIATE, THAT IT IS CONTRARY TO THE COMMON LAW)

In that he or she (they) did, on *[date]*, at in Naoero (in the territorial waters of Naoero) (RECITE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 93 OF THIS ACT THE ACT OR OMISSION ALLEGED TO CONSTITUTE THE OFFENCE)

(to be signed) S.T.
(State rank of police officer)

U.V.
Magistrate

[The next page is 290,001]

Criminal Procedure (Forms) Rules 1972

TABLE OF PROVISIONS

Rule	*Title*
1	Citation
2	Forms
	SCHEDULE
	FORM 1 — COMPLAINT
	FORM 2 — CHARGE (PRIVATE COMPLAINT)
	FORM 3 — CHARGE (COMPLAINT BY PUBLIC OFFICER)
	FORM 4 — SUMMONS TO ACCUSED
	FORM 5 — SUMMONS TO ACCUSED
	FORM 6 — WARRANT TO ARREST ACCUSED IN THE FIRST INSTANCE
	FORM 7 — NAOERO POLICE FORCE NOTICE TO ATTEND COURT
	FORM 8 — WARRANT TO ARREST ACCUSED WHERE NOTICE OR SUMMONS IS DISOBEYED
	FORM 9 — BAIL RECOGNIZANCE
	FORM 10 — SUMMONS TO WITNESS
	FORM 11 — WARRANT TO ARREST A WITNESS WHO HAS DISOBEYED A SUMMONS
	FORM 12 — WARRANT OF COMMITTAL FOR SAFE CUSTODY AFTER ARREST
	FORM 13 — WARRANT OF COMMITTAL FOR SAFE CUSTODY ON ADJOURNMENT OF HEARING
	FORM 14 — WARRANT TO ARREST ACCUSED WHO HAS NOT ATTENDED AFTER ADJOURNMENT
	FORM 15 — WARRANT OF COMMITTAL ON A CONVICTION WHERE THE SENTENCE IS IMPRISONMENT
	FORM 16 — WARRANT OF COMMITTAL ON A CONVICTION WHERE THE SENTENCE IN DEFAULT OF PAYMENT OF A FINE IS IMPRISONMENT
	FORM 17 — WARRANT OF DISTRESS FOR A FINE
	FORM 18 — WARRANT OF COMMITTAL IN DEFAULT OF DISTRESS FOR A FINE
	FORM 19 — RECOGNIZANCE FOR KEEPING THE PEACE

Title

FORM 20 — RECOGNIZANCE TO APPEAR AND RECEIVE SENTENCE

FORM 21 — WARRANT OF COMMITTAL FOR SAFE CUSTODY ON COMMITTAL FOR TRIAL

FORM 22 — RECOGNIZANCE OF BAIL ON COMMITTAL FOR TRIAL

FORM 23 — INFORMATION TO OBTAIN A SEARCH WARRANT

FORM 24 — SEARCH WARRANT

[The next page is 290,201]

Criminal Procedure (Forms) Rules 1972

TABLE OF AMENDMENTS

The Criminal Procedure (Forms) Rules 1972 were made and commenced on 27 November 1972.

Amending Legislation	Notified	Date of Commencement
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 290,401]

IN EXERCISE of the powers conferred on me by Section 217 of the *Criminal Procedure Act 1972*, I hereby make the following Rules:

1 Citation

These Rules may be cited as the *Criminal Procedure (Forms) Rules 1972*.

2 Forms

The forms set out in the Schedule to these Rules shall be used in criminal proceedings before the courts with such variation as the circumstances of each case require.

[The next page is 290,601]

SCHEDULE

List of forms in this Schedule

1. Complaint
2. Charge (private complaint)
3. Charge (complaint by public officer)
4. Summons to accused
5. Summons to accused
6. Warrant to arrest accused in the first instance
7. Notice to attend court
8. Warrant to arrest accused where notice or summons is disobeyed
9. Bail recognizance
10. Summons to witness
11. Warrant to arrest a witness who has disobeyed a summons
12. Warrant of committal for safe custody after arrest
13. Warrant of committal for safe custody on adjournment of hearing
14. Warrant to arrest accused who has not attended after adjournment
15. Warrant of committal on a conviction where the sentence is imprisonment
16. Warrant of committal on conviction where the sentence in default of payment of a fine is imprisonment
17. Warrant of distress for a fine
18. Warrant of committal in default of distress for a fine
19. Recognizance for keeping the peace
20. Recognizance to appear and receive sentence
21. Warrant of committal for safe custody on committal for trial
22. Recognizance of bail on committal for trial
23. Information to obtain a search warrant (under Section 75 of the Act)
24. Search warrant (under Section 75 of the Act)

[The next page is 290,801]

FORM 1

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 51]

COMPLAINT

In the District Court.

..... of ..... makes complaint to the undersigned magistrate that ..... of ..... did on the ..... day of ..... 20..... at ..... in Naoero

(a) .....

Taken (or sworn) at ..... the ..... day of ....., 20....., before me.

Magistrate.

(a) State the facts alleged to ..... constitute the offence complained of .....

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 2

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 51]

CHARGE
(PRIVATE COMPLAINT)

In the District Court.

Criminal Case No.

(a) ..... of (b) ..... is charged on the complaint of ..... with the following offence:

Statement of Offence (c)

Particulars of Offence (d)

Dated the ..... day of ....., 20.....

Magistrate

(a) Full name;

(b) Full address and occupation;

(c) Offence with written law and Section alleged to be contravened;

(d) Name or names of accused and brief particulars of offence in ordinary language.

Note - This form is for use for charge on private complaint only.
[Form 2 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 3

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 51]

CHARGE
(COMPLAINT BY PUBLIC OFFICER)

In the District Court.

Criminal Case No.

Statement of Offence (a)

Particulars of Offence (b)

Sworn before me (c)

Dated the ..... day of ....., 20.....

Magistrate

(a) Offence with written law and Section alleged to be contravened;

(b) Name or names of accused and brief particulars of offence in ordinary language;

(c) Strike out if not made on oath;

(d) Signature of complainant with rank, if a police officer, or office.

Note - This form is for use for charge on complaint by a public officer only.
[Form 3 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 4

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Sections 52 and 54]

SUMMONS TO ACCUSED

In the District Court.

Criminal Case No.

To (a)..... of (b) .....

You are hereby commanded to attend at ..... am*/pm on the .....day of ....., 20....., in the District Court at the Court House at Yaren there to answer the following charge made on the complaint of (a) ..... of (b) .....

Statement of Offence (c)

Particulars of Offence (d)

and be dealt with according to law.

Dated the ..... day of ....., 20.....

Magistrate

(a) Full name;

(b) Full address and occupation;

(c) Brief statement of offence with written law and Section alleged to be contravened, as stated in the charge;

(d) Brief particulars of offence in ordinary language, as stated in the charge.

* Delete whichever is not applicable.

[Form 4 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 5

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Sections 54 and 61]

SUMMONS TO ACCUSED

Criminal Case No.

To (a) ..... of (b) .....

You are hereby commanded to attend at ..... am*/p.m. on the ..... day of ..... 20....., in the District Court at the Court House at Yaren there to answer the charge set our hereunder and be dealt with according to law:

Provided that your personal attendance will be excused and the case may then be disposed of in your absence if:

(i) you admit the offence and plead guilty in writing; or

(ii) you attend by a legal practitioner.

Statement of Offence (c)

Particulars of Offence (d)

You are warned that:

(1) If your personal attendance has been excused any fine which may be imposed upon you shall be paid within 8 days from the date shown above.

(2) You will NOT receive notification from the Court of any fine which may have been imposed but it is your duty to make inquiry in that respect from the Court. If you fail to pay any such fine within the time allowed or to apply to the Court for an extension of time for payment of the fine you will be liable without further warning to be committed to prison forthwith for such terms as the Court may have lawfully ordered.

(3) If you do not attend at the time and place stated above, you shall be deemed to have consented to the charge being heard and determined in your absence.

Dated the ..... day of ....., 20.....

Magistrate

Note - This form shall be used:

(a) in all cases in which the offence is punishable only by fine or by imprisonment not exceeding 3 months, whether or not any disqualification may be ordered or may result from the accused being convicted; and

(b) in any other case in which the magistrate thinks fit to dispense with the personal attendance of the accused.

(a) Full name;
(b) Full address and occupation;
(c) Brief statement of offence with written law and Section alleged to be contravened, as stated in the charge;
(d) Brief particular of offence in ordinary language, as stated in the charge.

* Delete whichever is not applicable.

[Form 5 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 290,901]

FORM 6

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 52]

WARRANT TO ARREST ACCUSED IN THE FIRST INSTANCE

In the District Court.

Criminal Case No.

Warrant No.

To all Police Officers in Naoero.

These are to command you to arrest and bring before the District Court at the Court House at Yaren (a) ..... of (b) ..... to be dealt with according to law on the following charge made on the sworn complaint of (a) ..... of (b) .....

Statement of Offence (c)

Particulars of Offence (d)

Dated the ..... day of ....., 20.....

Magistrate

(a) Name;

(b) Full address and occupation;

(c) Brief statement of offence with written law and Section alleged to be contravened as stated in the charge;

(d) Brief particulars of offence in ordinary language, as stated in the charge.

[Form 6 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 7

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 53]

NAOERO POLICE FORCE
NOTICE TO ATTEND COURT

To (a) ..... of (b) .....

You are hereby required to attend the District Court at the Court House at Yaren at 9 a.m. on the ..... day of ..... 20..... to answer the charge set out hereunder:

Provided that your personal attendance will be excused and the case may then disposed of in your absence if:

(a) you admit the offence and plead guilty in writing; or

(b) you attend by a legal practitioner.

Statement of Offence (c)

Particulars of Offence (d)

(1) If you wish to enter a written plea of guilty you may do so on this form. This form should then be returned to the Commissioner of Police as soon as possible by registered post or personally.

(2) You are warned that:

(a) If your personal attendance has been excused any fine which may be imposed upon you shall be paid within 8 days from the date shown above;

(b) You will NOT receive notification from the court of any fine which may have been imposed but it is your duty to make inquiry in that respect from the court. If you fail to pay any such fine within the time allowed or to apply to the court for an extension of time for payment of the fine you will be liable without further warning to be committed to prison forthwith for such term as the magistrate may have lawfully ordered.

Signed:.....

Rank:.....

Date:.....

(a) Name;

(b) Full address and occupation;

(c) Brief statement of offence with written law and Section contravened;

(d) Brief particulars of offence in ordinary language.

WRITTEN PLEA OF GUILTY

I ..... being the person named above hereby enter a plea of guilty to the charge specified.

(Signed) ..... Date: .....

(On reverse side - Affidavit of Service)

AFFIDAVIT OF SERVICE

I (a) ..... of (b) ..... make oath and say that I did on the ..... day of ....., 20....., serve on (c) ..... of (d) ..... at (e) ..... a notice of which the notice on the front of this form is a true copy.

Sworn by me at .....)

this ..... day .....)

of ....., 20 .....)

Magistrate*/Commissioner for Oaths

(a) Full name of officer;

(b) Rank of officer;

(c) Full name of accused;

(d) Address of accused;

(e) Place of service.

[Form 7 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 8

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Sections 53 and 62]

WARRANT TO ARREST ACCUSED WHERE NOTICE OR SUMMONS IS DISOBEYED

In the District Court.

Criminal Case No.

Warrant No.

To all Police Officers in Naoero.

Whereas on the ..... day of ....., 20....., on the complaint of (a) ..... of (b) ..... (a) ..... of (b) ..... hereinafter called the accused was summoned */notified to attend before the District Court at the Court House at Yaren, at ..... am*/pm on the ..... day of ....., 20....., to answer the following charge:

Statement of Offence (c)

And whereas an oath has been made that the accused was duly served with the summons*/notified but did not attend.

These are therefore to command you to arrest the accused and bring him or her before the District Court at Yaren to answer the said charge and be dealt with according to law.

Dated the day of , 20

Magistrate

(a) Full name;

(b) Full address, and occupation;

(c) Brief statement of offence, with written law and Section alleged to be contravened, as stated in the charge or on the notice.

* Delete whichever is not applicable.

[Form 8 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 9

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 21 of the Bail Act 2018]

BAIL RECOGNIZANCE

In the (Supreme Court)
*(District Court)

On the ..... day of ....., 20....., ... of ..... (hereinafter called "the principal"), ... of ..... and ..... of ..... (hereinafter called "the surety (sureties)"), severally acknowledged themselves to owe to the Republic the several sums following, that is to say the principal, sum of ..... dollars and the surety (sureties each) the sum of ..... dollars, to be paid by them if the principal shall fail in the condition hereunder written.

The condition is that if the principal shall personally attend on the ..... day of ....., 20....., at ..... o'clock in the ..... noon in the Supreme Court*/District Court at the Court House at Yaren to answer an information filed by the Director of Public Prosecutions*/a charge made on the complaint of ..... and shall continue to attend from day to day and at each adjournment of the said court and not to depart therefrom without leave this bond shall be void.

Principal
Surety Registrar*/Magistrate*/Police Officer
Surety

*Delete whichever is not applicable.

[Form 9 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 10

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 100]

SUMMONS TO WITNESS

In the (Supreme Court)
*(District Court)

Criminal Case No.

To ..... of ..... Whereas a charge has been made on the complaint of ..... of ..... that ..... of ..... did commit the following offence:

Statement of Offence

Particulars of Offence

and it is believed that you are able to give material evidence therein;

You are therefore hereby summoned to attend before the Supreme Court*/District Court at the Court House at Yaren at .....am*/pm on the ..... day of ..... 20..... to testify what you know in the matter +/and also to bring with you and produce at the time and place aforesaid (a) .....

Dated the ..... day of ....., 20.....

Registrar*/Magistrate

(a) Specify documents to be produced

* Delete whichever is not applicable

+ Delete if not applicable

[Form 10 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 11

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 100]

WARRANT TO ARREST A WITNESS WHO HAS DISOBEYED A SUMMONS

In the (Supreme Court)
*(District Court)

Criminal Case No.

Warrant No.

To all Police Officers in Naoero.

..... of ..... not having attended in obedience to a summons requiring his or her attendance on the ..... day of ..... 20..... at the Supreme Court */District Court at the Court House at Yaren to give evidence in the above Criminal Case.

These are therefore to command you to arrest and bring before the Supreme Court*/District Court at ..... am*/pm on the ..... day of ..... 20..... the said ..... to be dealt with according to law.

Dated the ..... day of ....., 20 .....

Judge*/Magistrate

* Delete whichever is not applicable.

[Form 11 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 12

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 26(1) of the Bail Act 2018]

WARRANT OF COMMITTAL FOR SAFE CUSTODY AFTER ARREST

In the District Court.

Warrant No.

To all Police Officers in Naoero and to the Chief Correctional Officer.

..... of ..... having been brought before the District Court to answer the following charge:

Statement of Offence

These are therefore to command you the said Police Officers to convey and deliver the said ..... to the Chief Correctional Officer who is hereby directed safely to keep him or her until the ..... day of ....., 20....., and then have him or her before the District Court at the Court House at Yaren at ..... am*/pm

The said ..... *may be released on bail in the sum of ..... dollars with surety*/sureties in the sum of dollars*/without surety to attend before the District Court at the Court House at Yaren at ..... o'clock in the noon on the ..... day of ..... 20 ..... */may not be released on bail.

Dated the ..... day of ....., 20.....

Magistrate

* Delete whichever is not applicable.

[Form 12 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 291,001]

FORM 13

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 154]

WARRANT OF COMMITTAL FOR SAFE CUSTODY ON ADJOURNMENT OF HEARING

In the District Court.

Criminal Case No.

Warrant No.

To all Police Officers in Naoero and to the Chief Correctional Officer.

Whereas the hearing of a charge against ..... has been adjourned to the ..... day of ..... at ..... am*/pm in the District Court at the Court House at Yaren.

These are therefore to command you the said Police Officers to convey and deliver the said ..... to the Chief Correctional Officer who is hereby directed safely to keep him or her until the said ..... day of ..... and then have him or her before the District Court at the said time and place.

The said ..... *may be released on bail in the sum of ..... dollars with ..... surety*/sureties in the sum of ..... dollars*/without surety to attend before the District Court at the Court House at Yaren at ..... am*/pm on the ..... day of ..... 20..... */may not be released on bail.

Dated the ..... day of ....., 20.....

Magistrate

* Delete whichever is not applicable.

[Form 13 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 14

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 155]

WARRANT TO ARREST ACCUSED WHO HAS NOT ATTENDED AFTER ADJOURNMENT

In the District Court.

Criminal Case No.

Warrant No.

To all Police Officers in Naoero.

Whereas on the ..... day of ....., 20....., ... of ..... hereinafter called the accused, attended before the District Court at the Court House at Yaren to answer a charge made on the complaint of ..... of ..... that he or she the said accused did commit the following offence(s):

Statement of Offence

and the hearing of the said charge was adjourned to the ..... day of ....., 20....., at ..... am*/pm in the District Court at the Court House at Yaren at which time and place the accused failed to attend.

These are therefore to command you the said Police Officers to arrest the accused and bring him or her forthwith before the District Court at the Court House at Yaren.

Dated the ..... day of ....., 20.....

Magistrate

[Form 14 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 15

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 154]

WARRANT OF COMMITTAL ON A CONVICTION WHERE THE SENTENCE IS IMPRISONMENT

In the (Supreme Court)
*(District Court)

Criminal Case No.

Warrant No.

To all Police Officers in Naoero and to the Chief Correctional Officer.

Whereas ..... late of ..... was this day convicted by the Supreme Court*/District Court of the following offence(s):

Statement of Offence

and it was thereby adjudged that the said ..... for his or her offence(s) should be imprisoned for the period of .....;

These are therefore to command you the said Police Officers to take the said ..... and convey him or her to the correctional centre and deliver him or her to the Chief Correctional Officer thereof who is hereby directed to imprison him or her for the period of .....

Dated the ..... day of ....., 20.....

Judge*/Magistrate

* Delete whichever is not applicable.

[Form 15 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 16

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 9C]

WARRANT OF COMMITTAL ON A CONVICTION WHERE THE SENTENCE IN DEFAULT OF PAYMENT OF A FINE IS IMPRISONMENT

In the * (Supreme Court) / (District Court)

Criminal Case No.

Warrant No.

To all Police Officers in Naoero and to the Chief Correctional Officer.

Whereas ..... late of ..... (hereinafter called the accused) was on the ..... day of ....., 20....., convicted by the Supreme Court*/District Court of the following offence(s):

Statement of Offence

and it was thereby adjudged that the accused should for such his or her offence(s) pay a fine of ..... and ..... costs or in default of payment be imprisoned for the period of .....;

And whereas the accused has made default as follows:

These are therefore to command you the said police officers to convey and deliver the said accused to the Chief Correctional Officer who is hereby directed to imprison him or her the said accused for the period of ..... unless he or she shall sooner pay the following sums of money:

Fine. . . . . $
Costs. . . . . $
Warrant issuing fee. . . . . $
Total:

Dated the. . . . . day of. . . . . , 20. . . . . .

Judge*/Magistrate

* Delete whichever is not applicable

[Form 16 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 17

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 9A]

WARRANT OF DISTRESS FOR A FINE

In the (Supreme Court)
*(District Court)

Criminal Case No.

Warrant No.

To the Commissioner of Police.

Whereas ..... late of ..... was on the ..... day of ..... convicted before the Supreme Court*/District Court of the following offence(s):

Statement of Offence

Particulars of Offence

and it was thereby adjudged that the said ..... should for his or her offence pay a fine of ..... and should also pay to ..... the sum of ..... for costs; and being required to pay the said sums of ..... and ..... he or she has not paid the same but therein has made default;

These are therefore to command you forthwith to make distress of the goods and chattels of the said ..... and if within the period of ..... days next after the making of such distress the said sums together with the reasonable charges of taking and keeping the distress shall not be paid that you do sell the said goods and chattels so by you distrained [sic] and do pay the money arising by such sale to me */the Deputy Registrar of the District Court at Yaren that I*/he or she may pay and apply the same as by law directed and may render the surplus if any on demand to the said ..... and if no such distress can be found then that you certify the same to the Supreme Court*/District Court so that further proceedings may be had therein in accordance with the law.

Dated the ..... day of ....., 20.....

Registrar*/Magistrate

* Delete whichever is not applicable.

Amount adjudged:

Fine	$	
Costs	$	_____
	$	
Less Paid	$	_____
	$	
Warrant issuing fee	$	_____
Amount to be levied	$	
And, in addition, the charges of taking and keeping the distress	$	

RETURN

[Form 17 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 18

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 9C]

WARRANT OF COMMITTAL IN DEFAULT OF DISTRESS FOR A FINE

In the (Supreme Court)
*(District Court)

Criminal Case No.

Warrant No.

To all police officers in Naoero and to the Chief Correctional Officer.

Whereas

late of ..... (hereinafter called the accused) was on the ..... day of ....., 20 .....,convicted by the Supreme Court */District Court of the following offence(s):

Statement of Offence

and it was thereby adjudged that the accused should for such his or her offence(s) pay a fine of ..... and ..... for costs or in default of payment be imprisoned for the period of .....;

And whereas on the ..... day of ....., 20....., a distress warrant was issued for levying the said sum(s) but no sufficient distress whereon to levy the same could be found*/it appears that distress and sale of the accused's property would be ruinous to him or her or his or her family.

These are therefore to command you the said police officers to convey and deliver the said accused to the Chief Correctional Officer who is hereby directed to imprison him or her for the period of ..... unless he or she shall sooner pay the following sums of money:

Fine .....$

Costs .....$

Expenses of Distress .....$

Warrant of issuing fee .....$

Total:

Dated the ..... day of ....., 20.....

Registrar*/Magistrate

*Delete whichever is not applicable.

[Form 18 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 19

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 34]

RECOGNIZANCE FOR KEEPING THE PEACE

In the (Supreme Court)
*(District Court)

Criminal Case No.

We the undersigned severally acknowledge ourselves to owe to the Republic the several sums following namely ..... of ..... as principal the sum of ..... dollars and ..... of ..... as surety the sum of ..... dollars payment thereof to be enforced severally against us by due process of law if the said principal fail in the condition endorsed hereon.

..... Principal

..... Surety

Taken before me the ..... day of ....., 20.....

Registrar*/Magistrate

CONDITION

The condition of the above recognizance is such that if the above bounden principal shall keep the peace and be of good behaviour towards the Republic and all people in Naoero for a term of ..... now next ensuing then the said recognizance shall be void but otherwise shall remain in full force.

* Delete whichever is not applicable.

[Form 19 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 20

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 19]

RECOGNIZANCE TO APPEAR AND RECEIVE SENTENCE

In the (Supreme Court)

*(District Court)

Criminal Case No.

We the undersigned severally acknowledge ourselves to owe to the Republic the several sums following namely ..... of ..... as principal the sum of ..... dollars and ..... of ..... and ..... of ..... as sureties the sums of ..... dollars each, payment thereof to be enforced severally against us by due process of law if the said principal fail in the condition hereon endorsed.

..... Principal

..... Surety

..... Surety

Taken before me this ..... day of ....., 20.....

Registrar*/Magistrate

CONDITION

The condition of the above recognizance is such that if ..... the above bounden principal who was on the ..... day of ....., 20....., convicted by the Supreme Court*/District Court of the offence of ..... contrary to Section ..... of the *Crimes Act 2016* shall appear before the Supreme Court*/District Court at Yaren to receive sentence when called upon at any time during the period of ..... now next ensuring and in the meantime keep the peace and be of good behaviour and comply with the further conditions, if any, set our hereunder then the said recognizance shall be void but otherwise remain in full force.

FURTHER CONDITIONS

* Delete whichever is not applicable.

[Note: The *Criminal Code* was repealed by the *Crimes Act 2016*.]
[Form 20 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 21

WARRANT OF COMMITTAL FOR SAFE CUSTODY ON COMMITTAL FOR TRIAL

CRIMINAL PROCEDURE ACT 1972

[Section 170]

In the District Court.

Criminal Case No.

To all police officers in Naoero and to the Chief Correctional Officer.

Whereas ..... of ..... was this day charged before me with the following offence(s):

Statement of Offence.

Particulars of Offence.

and was committed for trial to the Supreme Court of Naoero.

These are therefore to command you the said police officers to convey and deliver the said ..... to the Chief Correctional Officer who is hereby directed to receive the said ..... into his or her custody in the prison and there safely keep him or her until he or she shall be thence delivered in due course of law.

Dated the ..... day of ....., 20.....

Magistrate

[Form 21 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 22

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 170]

RECOGNIZANCE OF BAIL ON COMMITTAL FOR TRIAL

In the District Court.

Criminal Case No.

We the undersigned severally acknowledge ourselves to owe to the Republic the several sums following namely ..... of ..... as principal the sum of ..... and ..... of ..... as surety the sum of ..... payment thereof to be enforced severally against us by due process of law if the said principal fail in the condition endorsed hereon.

..... Principal

..... Surety

Taken before me this ..... day of ....., 20.....

Magistrate

CONDITION

The condition of the above recognizance is such that whereas the above bounden principal was this day charged before the District Court and committed for trial to the Supreme Court of Naoero for the following offence:

Statement of Offence

Particulars of Offence

If therefore the said principal shall attend before the said Supreme Court at the Court House at Yaren at 9 a.m. on the ..... day of ....., 20....., and there surrender himself or herself into the custody of the Court and plead to and take his or her trial upon an information against him or her for or in respect of the charge aforesaid and not depart the said recognizance shall be void but otherwise remain in full force.

[Form 22 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 23

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 75]

INFORMATION TO OBTAIN A SEARCH WARRANT

The information of ..... of ....., who upon oath states that he or she has reasonable cause to suspect and he or she does suspect and believe that certain property namely (a) .....*upon, by or in respect of which an offence has been committed*/which is necessary to the conduct of an investigation into an offence is in a certain (b) ..... at (c) ..... of (d) .....

And the grounds of such suspicion and belief are:

(Signature of Informant)

Sworn before me at ..... this ..... day of ....., 20.....

Magistrate

Note:

(a) Describe article or things;

(b) Building, ship, vehicle, receptacle or place;

(c) Situation of building, etc;

(d) Name of owner or person residing in or being in charge of the building, etc.

* Delete whichever is not applicable.

[Form 23 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 24

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

[Section 75]

SEARCH WARRANT

To all police officers in Naoero.

Whereas it is made to appear to me by information on oath laid this day by ..... of ..... that there is reasonable ground for suspecting that certain property, namely (a) ..... *upon, by or in respect of which an offence has been committed*/which is necessary to the conduct of an investigation into an offence is in a certain (b) ..... at (c) ..... of (d) .....

You are hereby authorised forthwith with proper assistance to enter the said (b) ....., if necessary by force, and there search for the property above mentioned and, if anything searched for be found, or any other thing which there is reasonable cause to suspect to have been stolen or unlawfully obtained be found, to seize it and bring it before the District Court at Yaren to be dealt with according to law.

Dated the ..... day of ....., 20.....

Magistrate

Note:

(a) Describe article or things;

(b) Building, ship, vehicle, receptacle or place;

(c) Situation of building, etc;

(d) Name of owner or person residing in or being in charge of the building, etc.

* Delete whichever is not applicable.

[Form 24 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 295,001]

Rule of Court 1999

TABLE OF AMENDMENTS

The Rule of Court 1999 (GN No 38/1999) was notified on 10 March 1999 and commenced on 1 April 1999 (rule B).

Amending Legislation	Notified	Date of Commencement
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 295,201]

Rule of Court 1999

Pursuant to Sections 74 (d) and (g) of the *Courts Act 1972* and Section 118 of the *Criminal Procedure Act 1972*, **I, GAVEN JOHN DONNE, CHIEF JUSTICE** of Naoero **DO HEREBY MAKE** the following Rule:

[cl am Act 21 of 2026 s 5, opn 12 May 2026]

A. Costs -

1. Wherein the District Court an offender is convicted of an offence or discharged by it under any written law following a finding that he or she is guilty of an offence, the Court may order the offender to pay the costs of the hearing by the Court of the proceedings in relation to the offence.

2. Subject to the Court deciding otherwise the costs to be ordered pursuant to subrule (1) shall be FIVE DOLLARS ($5) in respect of each offence heard by the Court.

3. Costs ordered under this Rule shall be paid into the Treasury Fund.

B. This Rule will come into effect on the 1st day of April, 1999.

[The next page is 300,001]

Criminal Procedure (Criminal Convictions) Regulations 2020

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation
2	Commencement
3	Register of Records of criminal and other convictions
4	Certificate of record of no convictions
5	Certificate of record of convictions
6	Notice of objection to certificate of record of convictions
7	Notice of objection to certificate comparing fingerprints
8	Fees
	SCHEDULE 1 — REGISTER OF RECORDS
	SCHEDULE 2 — FORMS
	FORM 1 — CERTIFICATE OF RECORD OF NO CONVICTIONS
	FORM 2 — CERTIFICATE OF RECORD OF CRIMINAL AND OTHER CONVICTIONS
	FORM 3 — NOTICE OF OBJECTION TO CERTIFICATE OF RECORD OF CONVICTIONS
	FORM 4 — NOTICE OF OBJECTION TO CERTIFICATE COMPARING FINGERPRINTS OF PERSON WITH CRIMINAL CONVICTIONS
	SCHEDULE 3 — FEES

[The next page is 300,201]

Criminal Procedure (Criminal Convictions) Regulations 2020

TABLE OF AMENDMENTS

The Criminal Procedure (Criminal Convictions) Regulations 2020 No 25 were notified and commenced on 20 August 2020 (GN No 620/2020; Gaz 164/2020).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 300,401]

The Cabinet makes the following Regulations under Section 98 of the *Criminal Procedure Act 1972*:

1 Citation

These Regulations may be cited as the *Criminal Procedure (Criminal Convictions) Regulations 2020*.

2 Commencement

These Regulations come into effect on the day they are notified in the Gazette.

3 Register of Records of criminal and other convictions

For the purpose of Section 98 of the Act, the Register established and maintained by the Registrar may be kept as set out in Schedule 1:

(a) in writing; and

(b) in electronic form that is readily retrievable.

4 Certificate of record of no convictions

The form of a certificate of no convictions shall be in Form 1 of Schedule 2.

5 Certificate of record of convictions

For the purpose of Section 98A(1) of the Act, the form of the certificate of the record of criminal convictions issued by the Registrar shall be in Form 2 of Schedule 1.

6 Notice of objection to certificate of record of convictions

For the purpose of Section 98A(1) of the Act, the notice of objection to a certificate of record of convictions shall be in Form 3 of Schedule 2.

7 Notice of objection to certificate comparing fingerprints

For the purpose of Section 98A(2) of the Act, the notice of objection to a certificate comparing fingerprints of a person with a conviction shall be in Form 4 of Schedule 2.

8 Fees

For the purpose of Section 98(7) of the Act, the fees to be paid are set out in Schedule 3.

[The next page is 300,601]

SCHEDULE 1

CRIMINAL PROCEDURE ACT 1972

[Section 98; Regulation 3]

REGISTER OF RECORDS

REGISTER OF RECORDS OF CRIMINAL AND OTHER CONVICTIONS

Details of offender:	[*insert full name*] [*insert residential address*] [*insert date of birth*] [*insert nationality*] [*photo/photo identity*]
Offender's parents' details:	[*insert full names*] *[insert residential address*]
Register number:	
Case Reference Number:	
Court person convicted:	
Nature of offence for which person convicted:	
Date charge filed:	[*date/month/year*]
Date of conviction [whether after pleading guilty or trial]:	[*date/month/year*]
Date of sentence:	[*date/month/year*]
Sentence:	

[The next page is 300,801]

SCHEDULE 2

FORMS

FORM 1



REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

CONFIDENTIAL

[Regulation 4]

CERTIFICATE OF RECORD OF NO CONVICTIONS

This is to certify that [*insert name*] has no convictions recorded and kept in the Register of Records of criminal and other convictions under the *Criminal Procedure Act 1972*.

Sealed and issued on [*insert date*]

REGISTRAR OF COURTS

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 2

REPUBLIC OF NAOERO

CRIMINAL PROCEDURE ACT 1972

CONFIDENTIAL

[Section 98A(1); Regulation 5]

CERTIFICATE OF RECORD OF CRIMINAL AND OTHER CONVICTIONS

RPC No:. . . / 20. . .

This is to certify that as of the date of issuance of this certificate, [*Mr / Ms / Mrs / Miss*] [*insert full name*] has the following (*criminal / other*) convictions recorded and kept in the Register of Records of criminal and other convictions under the *Criminal Procedure Act 1972*: [*list convictions*]

(1) *[court], [case reference number], [offence guilty of], [sentence]*

Sealed and issued on [*insert date*]

REGISTRAR OF COURTS

[Form 2 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 3

[Section 98A(1), Regulation 6]

NOTICE OF OBJECTION
TO
CERTIFICATE OF RECORD OF CONVICTIONS

NOC No.:. . . / 20. . .

TAKE NOTICE that [*Full name*], [*address*] objects to the following conviction(s) recorded and kept in the Register of Records of criminal and other convictions under the *Criminal Procedure Act 1972*:

(1)

The above conviction(s) is objected to on the following ground(s):

(1)

The aforementioned records shall be removed from the Register of Records of criminal and other convictions and the certificate reference number. . . issued on. . . of. . . . . 20. . . under Regulation 5 to be rectified accordingly.

Dated this day of 20. . . .

[Signature]

[Full name of applicant]

To the Republic

FORM 4

[Section 98A(2), Regulation 7]

NOTICE OF OBJECTION TO CERTIFICATE COMPARING FINGERPRINTS OF PERSON WITH CRIMINAL CONVICTIONS

TAKE NOTICE that *[Full name], [address]* objects to the certificate issued by *[Full name of person appointed by Minister]* on the following ground(s):

(1)

Dated this day of 20. . . .

[Signature]

[Full name of applicant]

To the Republic

[The next page is 301,001]

SCHEDULE 3

[Section 98(7); Regulation 8]

FEES

	Item	Section of Act	Fees
1	Certificate for record of convictions	Section 98(7)	$50
2	Certificate for record of no convictions	Section 98(7)	$50

[The next page is 320,001]