

Chapter:	227A	MAGISTRATES (ADMINISTRATIVE) RULES	Gazette Number	Version Date
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		Empowering section		30/06/1997
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(Cap 227 sections 35, 62, 63, 64 and 133)

[1 January 1933]

(Originally 41 of 1932 Second Schedule)

Rule:	1	Interpretation		30/06/1997
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SUMMARY PROCEEDINGS

1. In these rules, unless the context otherwise requires-
 "authorized clerk" (獲授權書記) means in respect of each magistracy any person authorized in writing, by a magistrate normally sitting at that magistracy, to perform the duties hereinafter referred to;
 "magistracy" (裁判法院) means any premises, other than those separately used as a juvenile court in accordance with the provisions of section 3D(2) of the Juvenile Offenders Ordinance (Cap 226), which contain rooms in which a magistrate habitually sits to hear and try any complaint or information;
 "transfer" (移交) refers to the transfer of a charge to the District Court.

(G.N.A. 91 of 1960)

Rule:	2	Case Register		30/06/1997
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(1) There shall be kept in respect of each magistracy a case register in which shall be entered particulars, as required, of every proceeding or matter before a magistrate there sitting taken from the relevant- (L.N. 331 of 1995)

- (a) information; or
- (b) complaint; or
- (c) claim; or
- (d) charge sheet; and
- (e) the magistrate's minutes referred to in section 34 of the Ordinance.

(2) A case register kept under subrule (1) may be kept-

- (a) in the form of a book;
- (b) in the form of a disc, card, tape, microchip, sound track or other device on or in which information or data is recorded or stored by mechanical, electronic, optical or other means; or
- (c) partly in the form referred to in paragraph (a) and partly in the form referred to in paragraph (b). (L.N. 331 of 1995)

(3) A case register kept under subrule (1) may be divided into parts. (L.N. 331 of 1995)

(4)-(5) (Repealed L.N. 331 of 1995)

(G.N.A. 91 of 1960)

Rule:	3	Accounts		30/06/1997
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(1) The magistrates' clerk shall render an account of all fines, fees and other sums received by him under the Ordinance in such manner and at such times as the Director of Accounting Services may direct. (L.N. 16 of 1977)

(2) The magistrates' clerk shall enter on the day of its receipt each sum of money received by him on any account whatever.

(3) Where payment is deferred or to be made by instalments, the magistrates' clerk shall make a note opposite the appropriate entry in the return, and shall enter the sum in a book called the Instalment Ledger.

(4) When the whole of such sum has been paid or received by distress, or the term of imprisonment imposed in default of payment or of sufficient distress has expired, the magistrates' clerk shall then enter the sum in the account:
 Provided that, though the whole of the sum may not have been paid or recovered, the instalments received shall

be accounted for at such times and in such manner as the Director of Accounting Services may direct. (L.N. 16 of 1977; L.N. 453 of 1993)

Rule:	4	Other accounts dispensed with		30/06/1997
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When the magistrates' clerk has rendered an account in such form as shall be required by the Director of Accounting Services, he shall not be required to render any other account relating to the same particulars.

(G.N.A. 91 of 1960; L.N. 16 of 1977; L.N. 453 of 1993)

Rule:	5	Returns to Chief Secretary for Administration	L.N. 362 of 1997	01/07/1997
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The magistrates' clerk shall render such returns at such times and in such manner as the Chief Secretary for Administration may direct.

(L.N. 226 of 1976; L.N. 362 of 1997)

Rule:	6	Application of sum due under forfeited security		30/06/1997
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Where a magistrate has enforced payment of any sum due by a principal in pursuance of a security under the Ordinance which appears to the magistrate to be forfeited, the sum shall be paid to the magistrates' clerk, and shall be paid and applied by him in accordance with its appropriation in such manner as the Director of Accounting Services may direct.

(L.N. 16 of 1977; L.N. 453 of 1993)

Rule:	7	Form of security		30/06/1997
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Any security given under this Ordinance by an oral or written acknowledgment may be in the form of an undertaking.

Rule:	8	Security book		30/06/1997
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(1) The magistrates' clerk shall keep a security book, and shall enter therein, with respect to each security given in relation to any proceeding, the name and address of each person bound, showing whether he is bound as principal or as surety, the sum in which each person is bound, the undertaking or condition by which he is bound, the date of the security, and the person before whom it is taken.

(2) Where any such security is not entered into before a magistrate or before the magistrates' clerk, the person before whom it is entered into shall make a return thereof, showing the above particulars, to the magistrates' clerk.

(3) The security book, and any certified extract therefrom, shall be evidence of the several matters hereby required to be entered in the security book in like manner as if the security book were the register.

Rule:	9	Notice to principal of forfeiture of security		30/06/1997
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(1) Not less than 2 clear days before a warrant of distress is issued for a sum due by a principal in pursuance of a forfeited security under the Ordinance, the magistrates' clerk issuing the warrant shall cause notice of the forfeiture to be served on the principal.

(2) Service of the notice may be effected either by prepaid letter sent to the address mentioned in the security, or as service of a summons may be effected under the Ordinance.

Rule:	10	Application to vary order for sureties		30/06/1997
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An application under section 62 of the Ordinance shall be an application for a summons requiring the complainant to show cause why the order made on his complaint should not be varied.

Rule:	11	Payment by defendant		30/06/1997
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When an order of commitment for non-payment of money is issued, the defendant may, at any time before he is delivered into the custody of the gaoler, pay to the officer holding the order the amount endorsed thereon as that on the payment of which he may be discharged, and, on receiving that amount, the officer shall discharge the defendant, and shall forthwith pay over the amount to the magistrates' clerk.

Rule:	12	Discharge of prisoner on payment		30/06/1997
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(1) The sum endorsed on the order of commitment as that on payment of which the prisoner may be discharged may be paid to the magistrates' clerk.

(2) Where it is paid to the clerk, he shall sign a certificate of the payment, and, on receiving the certificate by post or otherwise, the gaoler in whose custody the prisoner then is shall forthwith discharge the prisoner.

Rule:	13	Direction that money found on defaulter shall not be applied in satisfaction of fine		30/06/1997
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Where the defendant is committed to prison or other place of detention, any direction given under section 38 of the Ordinance shall be endorsed on the warrant of commitment.

(G.N.A. 78 of 1956)

Rule:	14	Costs of plaintiff or complainant in enforcing order		30/06/1997
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All costs incurred by the plaintiff or complainant in endeavouring to enforce an order shall, unless a magistrate otherwise orders, be enforceable by warrant of distress and sale or by imprisonment not exceeding (42 days) 6 weeks, unless the same shall be sooner paid.

Rule:	15	Custody of exhibits	25 of 1998 s. 2	01/07/1997
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Remarks:

Amendments retroactively made-see 25 of 1998 s. 2

(1) Except insofar as the magistrate may direct all exhibits in the case shall remain in the custody of the magistrates' clerk or of such person as the magistrate may direct until an appeal has been lodged or the period during which an appeal may be lodged has expired.

(2) After the expiration of the period during which an appeal may be lodged or, in the case of an appeal, after the exhibits have been returned to the magistrates' clerk by the Registrar of the High Court as provided by rule 19(2) the magistrates' clerk shall, subject to any order which the magistrate may make, return all exhibits to the persons who originally produced the same:

Provided that any such exhibit as to which an order for restitution may have been made by the magistrate or by a judge of the Court as the case may be, shall not be returned except under the direction of the magistrate or of the judge of the Court as the case may be. (25 of 1998 s. 2)

(G.N.A. 82 of 1954)

Rule:	16	Delivery of additional copy of case stated		30/06/1997
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APPEALS

In all cases of appeal to the Court of Appeal on questions of law under Part VII of the Ordinance, the party setting down the appeal for argument shall, at the time of setting down the appeal for argument and when the appeal is to be heard before 2 judges, furnish the Registrar with an additional copy of the case stated and of the depositions, if any, attached thereto; and if he fails to do so the other party to such appeal may, on the day following, deliver such copy as ought to have been delivered by the party making default; and the party making default shall not be heard until he has paid for such additional copy or deposited with the Registrar a sufficient sum to pay for such copy.

Rule:	17	Mode stating case		30/06/1997
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Every case stated under Part VII of the Ordinance shall be divided into paragraphs which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively.

Rule:	18	Costs of drawing and copying case		30/06/1997
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The costs of drawing and copying any such case as aforesaid which does not in substance comply with the requirements of rule 17 shall not be allowed on taxation, unless the Court of Appeal or the judge before whom the appeal is heard specially so directs.

Rule:	19	Transmission of exhibits on appeal	25 of 1998 s. 2	01/07/1997
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Remarks:

Amendments retroactively made-see 25 of 1998 s. 2

(1) Whenever the magistrates' clerk shall receive notice of any appeal in accordance with section 114(b) of the Ordinance or the magistrate has received a request to sign and state a case in accordance with section 105 of the Ordinance, the magistrates' clerk shall transmit all exhibits in the case to the Registrar of the High Court or to such person as the Registrar may direct at the same time as he transmits the notice of appeal to the Registrar, in accordance with the provisions of section 116(1) of the Ordinance. (25 of 1998 s. 2)

(2) All such exhibits other than such documents as are usually kept by the Registrar shall, after the determination of the appeal and subject to any order which the Court may make, be returned to the magistrates' clerk for disposal as provided in rule 15(2).

(G.N.A. 82 of 1954)

Rule:	20	Citation		30/06/1997
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CITATION

These rules may be cited as the Magistrates (Administrative) Rules.

Schedule:		SCHEDULE (Repealed L.N. 331 of 1995)		30/06/1997
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