

No. 11—1941.

*Criminal Procedure.*

AN ORDINANCE to amend the Criminal Procedure Ordinance, Ch. 4. No. 3.

[13th June, 1941.]

Commencement.

1. This Ordinance may be cited as the Criminal Procedure (Amendment) Ordinance, 1941, and shall be read as one with the Criminal Procedure Ordinance, hereinafter referred to as the Principal Ordinance.

Short title.

Construction.

Ch. 4. No. 3.

2. Section 2 of the Principal Ordinance is hereby amended by deleting therein the definition of "Registrar" and substituting therefor the following:—

Section 2 of Principal Ordinance amended.

"Registrar", "Deputy Registrar" and "Sub-Registrar" mean respectively the Registrar, Deputy Registrar and Sub-Registrars appointed as such in accordance with the provisions of the Judicature Ordinance: Provided that any duty imposed on the Registrar by sections 18 (1), 19, 28, 30, 32, 46, 50, 54, 75 and 81 of this Ordinance may be performed by the Deputy Registrar, or by a Sub-Registrar of the Court concerned.

Ch. 3. No. 1.

3. Subsection (6) of section 3 of the Principal Ordinance is hereby repealed and replaced by the following subsection:—

Subsection (6) of section 3 of Principal Ordinance repealed and replaced. Ch. 4. No. 3.

Procedure for transfer of cases.

(6) A transfer under subsection (5) shall be effected by delivering to the Registrar, ten clear days at least before the day of trial, a warrant for such transfer signed by the Attorney General; and it shall be the duty of the Registrar by himself or his assistants, six clear days at least before the trial, to serve on the accused a copy of such warrant by delivering the same to him personally, or leaving the same at the place appointed for that purpose in the recognizance entered into by the accused.

Section 11 of  
Principal  
Ordinance  
amended.

4. Section 11 of the Principal Ordinance is hereby amended by deleting therein the word "Marshal" and substituting therefor the words "Registrar by himself or his assistants".

Section 18 of  
Principal  
Ordinance  
repealed and  
replaced.

5. Section 18 of the Principal Ordinance is hereby repealed and replaced by the following section:—

Duty to  
prepare  
subpoenas.

18. (1) Subject to the provisions of subsection (2) of this section, it shall be the duty of the Registrar, on being furnished with the names and places of abode of any witnesses on behalf of the prosecution or defence whose attendance is required to be secured by subpoena, to prepare for service a writ or writs of subpoena directed to such witnesses, together with as many copies thereof, as there may be witnesses named in such writ or writs.

(2) Notwithstanding the provisions of subsection (1) of this section, it shall be lawful for the Registrar, before a subpoena directed to any witness whose attendance is required on behalf of the defence is prepared, to require to be satisfied by evidence on oath or otherwise that that witness is likely to be able to give material evidence, and it shall be lawful for the Deputy Registrar to exercise the like powers in relation to any application for any such subpoena directed to the Registrar: Provided that nothing in this subsection shall be deemed to prejudice any right or power of the Court at the trial to call, or permit to be called, any witness.

(3) When application shall be made to postpone any trial by reason of the absence of any witness, it shall be taken as *prima facie* evidence, liable nevertheless to be rebutted, that the party applying for such postponement has not exercised all due and necessary diligence to secure the attendance of such witness if it shall appear that no subpoena to such witness was requested four clear days at the least before the first day of the Criminal Sessions.

6. Section 19 of the Principal Ordinance is hereby repealed and replaced by the following section:—

Section 19 of  
Principal  
Ordinance  
repealed and  
replaced.

Service of  
subpoenas.

19. The Registrar, by himself or his assistants, shall with all diligence, serve, or attempt to serve, a copy of the writ of subpoena upon each witness to be served, and shall note every such service or attempted service with the time thereof upon the original writ of subpoena, and shall endorse and subscribe thereon a certificate of the service or non-service thereof, as the circumstances of the case may require; any such certificate shall be *prima facie* evidence of the facts stated therein.

7. Sections 30, 46 and 50 of the Principal Ordinance are hereby amended by inserting therein immediately after the word "Registrar" where it occurs in each section the words "or officer deputising as such".

Sections 30, 46  
and 50 of  
Principal  
Ordinance  
amended.

8. Section 39 of the Principal Ordinance is hereby amended by deleting therein the words "it shall be the duty of the Registrar, at the time of delivering to the accused" and substituting therefor the words "it shall be the duty of the officer delivering to the accused on behalf of the Registrar".

Section 39 of  
Principal  
Ordinance  
amended.