

# **DRAFT MODEL PROVINCIAL VILLAGE COURTS ACT 1996**

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Draft (Jan, 1996)

**A BILL**

**For**

**AN ACT**

Entitled

**Provincial Village Courts Act 1996**

Being an Act as authorized by Section 42 of the **Organic Law on Provincial and Local Level Governments** to provide for the establishment and administration of Village or Community Courts, and for related purposes.

MADE by the \_\_\_\_\_ Assembly, to come into operation in Accordance with a notice published in the Provincial Gazette by the \_\_\_\_\_ responsible for justice matters.

**PART I - PRELIMINARY**

**1. INTERPRETATION.**

In this Act unless the contrary intention appears "Chairman" in relation to a Village Court, means the Chairman of the Court appointed under Section 17 , and where an appointment of Deputy Chairman has been made, includes the Deputy Chairman:

"Deputy Village Court Clerk" means a Deputy Village Court Clerk appointed under Section 23:

"Dispute" unless contrary meaning appears includes a threatened dispute:

"Local Level Government" includes -

a Local Government Body and

(b) a Community Government Council established

"Magistrate" means

(a) a District Court Magistrate; or

(b) a Local Court Magistrate; or

(c) a Reserved District Court Magistrate; or

(d) a Deputy Local Court Magistrate.

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“The Minister”, in relation to any provision, matter or things means the Minister who, in accordance with Section 148 functions, etc., of Minister of the Constitution, has responsibility for the provision, matter or thing.

“National Act” means the Village Courts Act (Chapter 44) of the National Parliament:

“Peace and Good Order Committee” means a Peace and Good Order Committee established under Section 5 of the Inter-Group Fighting Act (Chapter 344):

“Provincial Governor” means a person holding office as Provincial Governor under the Organic Law on Provincial and Local Level Governments:

“Provincial Administrator” means a Provincial Administrator appointed under Section 73(2) of the Organic Law on Provincial and Local Level Governments:

“Provincial Executive Council” means a Provincial Executive Council established under Section 23 of the Organic Law on Provincial and Local Level Governments:

“Provincial Supervising Magistrate” means a District Court Magistrate appointed under the National Act includes a Deputy Provincial Supervising exercising or performing any power of function of Provincial Supervising Magistrate:

“Provincial Village Courts Officer” means a person appointed under Section 4 to be a Provincial Village Courts Officer:

“The Local Level Government Body” in relation to a Village Court, means the Local Level Government Body for the area in which the Village Court is established:

“This Act” includes the regulations made under it under this Act and “Court” has a corresponding meaning:

“Village Court Clerk” means a Village Court Clerk appointed under Section 23:

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“Village Courts Inspector” means a Village Courts Inspector appointed under Section 5 and includes a Provincial Village Courts Officer appointed under Section (4).

“Village Court Officials means any of the persons appointed under Section 17, 23, and 24:

“Village Peace Officer” means a Village Peace Officer appointed under Section 24.

## **2. APPLICATION OF NATIONAL ACT.**

(1) Where, pursuant to Section 42 of the **Organic Law on Provincial and Local Level Governments**, provisions of the National Act conflicts with or purports to deal with or under this Act, the National Act shall not apply.

(2) Whereas, where there is omission or no sufficient provision, in this Act in respect of any matter or thing that is necessary or desirable to give effect to this Act, the provisions of the National Act on those matters or things shall apply.

(3) Subject to Subsection (2), the National Act applies to Village Courts established under this Act, and where so applicable any reference to Village Court or Officials of Village Courts shall be read as Village Courts established under and Officials appointed under this Act.

## **PART II - ADMINISTRATION**

## **3. DIVISION OF VILLAGE COURTS.**

(1) There is established a Division of Village Courts located within the Department of \_\_\_\_\_ responsible for Community or Village Level justice matters, comprising such Officers or employees as are necessary for the carrying out of its functions under Subsection (2).

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- (2) The function of the Division of Village Courts Services are for -
- (a) the efficient management of the system of Village Courts and Village Magistrates, Village Court Clerks and Village Peace Officers; and
  - (b) the measures that are desirable for achieving the purpose of or giving effect to this Act; and
  - (c) the measures that are desirable for achieving the purpose of or giving effect to the **Land Disputes Settlement Act** (Chapter 45), and

4. **PROVINCIAL VILLAGE COURTS OFFICER.**

There shall be a Provincial Village Courts Officer appointed or selected in accordance with the **Public Service (Management) Act**.

5. **VILLAGE COURT OFFICERS AND INSPECTORS.**

(1) There shall be Officers and Inspectors appointed or selected in accordance with the prescribed manner under Section 4 and are responsible for efficient management of the system of Village Courts.

(2) An Officer or an Inspector is not eligible to hold any other Office under this Act in relation to a Village Court except as a custodian of possessions of the suspended Village Court under Section 12 and for other matters.

6. **POWERS AND FUNCTIONS OF OFFICERS AND INSPECTORS.**

Powers, duties and responsibilities of Officers and Inspectors are as prescribed under this Act and as determined from time to time.

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7. **DELEGATION.**

The Provincial Village Courts Officer may, by instrument under his hand, delegate to a Village Courts Officer or an Inspector all or any of his powers or functions under this Act (except his power of delegation).

8. **SUSPENSION.**

The Provincial Administrator may, in accordance with the **Public Service (Management) Act**, suspend a Village Courts Officer or an Inspector appointed under Section 4 and 5 for an offence with or without pay.

9. **ANNUAL REPORTS**

(1) The Provincial Governor shall present to the Provincial Assembly, on or before 31 January, the following year, a report reviewing the operation of this Act and of the Village Court system in the Province, and draw attention to any measures that are, in his opinion, desirable for achieving the purposes of this Act and for improving the operation of that system.

(2) Each Village Court shall on or before 30 November send to the Provincial Administrator through the Provincial Village Courts Officer, a report reviewing every aspect of the Village Court operations for the 12 months ended 31 December in that year.

(3) The Provincial Village Court Official shall, on or before 31 January, the following year, after receipt of annual reports under Subsection (2), prepare and forward to the Provincial Governor for presentation to the Provincial Assembly, a report reviewing the operations of the Village Courts in the Province, during the 12 months ended 31 December.

### **PART III - VILLAGE COURTS**

Division 1 - Establishment, Variation, Suspension, Dissolution, etc.

#### **10. ESTABLISHMENT OF VILLAGE COURTS.**

The Minister, acting with, and in accordance with, the advice of the Provincial Executive Council may, by notice in the National Gazette establish a Village Court in and for an area specified in the proclamation.

#### **11. VARIATION OF VILLAGE COURTS**

(1) After consultation by the Provincial Administrator with the Local Level Government concerned, the Minister acting on advice of the Provincial Executive Council, may, by subsequent notice in the Provincial Gazette.

- (a) vary the area in and for which a Village Court is establishment; or
- (b) divide a Village Court area, in whole or in part, between two or more Village Courts; or
- (c) amalgamate, in whole or in part, two or more Village Courts.

(2) Notwithstanding Subsection (1), after consultation by the Provincial Administrator with the Local Level Government concerned, the Minister acting on advice of the Provincial Executive Council, may, by subsequent notice in the National Gazette -

- (a) change the name of the Village Courts; and
- (b) vary the constitution of the Village Courts.

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**12. SUSPENSION OF VILLAGE COURTS.**

Where, in the opinion of the Provincial Administrator, the business of a Village Court -

- (a) is being negligently, inefficiently or badly conducted, or
- (b) is being so conducted as not to be for the welfare of the Village Court or persons in the area; or
- (c) a Village Court is not properly carrying out the duties imposed on it by or under this Act or any other law,

the Provincial Administrator, may by written order to the Chairman of the Village Court concerned, suspend all or any of the powers and functions of the Village Court.

(3) Where a Village Court is suspended under Section 12, the Provincial Village Courts Officer or a Village Courts Officer, as the case may be, shall in accordance with Section 5 (2) take possession of and provide for the safe custody of -

- (a) the books and records of the Village Court; and
- (b) the badges and other insignia of Office issued under Section 47; and
- (c) the certificates of appointment (if any of the Village Court officials; and
- (d) the properties or things purchased or issued under Section 50.

(4) Where a Village Court is suspended, the Provincial Supervising Magistrate shall transfer to a Local Court such proceedings pending in the suspended Village Court at the date of suspension, as he considers necessary, in the interest of justice so to do.

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(5) The Minister shall publicize by notice in the National Gazette and by such other means as he considers appropriate -

- (a) the suspension of the Village Court; and
- (b) the proceedings transferred under Subsection (4).

(6) Subject to Section 122 (Indemnity) of the National Act, suspension of power and functions of a Village Court does not affect any criminal investigation, enquiry, remedy or court proceedings against a Village Court Officials or Officials be carried or enforced as if the suspension had not taken place.

**14. PERIOD OF SUSPENSION.**

Subject to Section 12 a suspension under this Division operates until –

- (a) at the end of such period as is fixed by the Minister; or
- (b) at the expiry of twenty-four months where the suspension lapse, whichever first occurs.

**15. LIFTING OF SUSPENSION.**

(1) Notwithstanding Section 14, after the suspension of a Village Court, the Provincial Supervising Magistrate or a Local Court Magistrate and the Provincial Village Courts Officer shall submit a report to the Provincial Administrator covering all aspects of the Village Court operations recommending lifting of suspension under this Section.

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(2) The Provincial Administrator after receiving the report recommending lifting of suspension may re-instate the Village Court Officials, except an official or of justice for an omission as the Village Court Officials.

#### **16. DISSOLUTION OF VILLAGE COURT.**

(1) The Minister, acting with and in accordance with, the advice of the Provincial Executive Council may, by notice in the National Gazette, abolish a Village Court established under this Division.

(2) Where a Village Court is dissolved under this Section, the Provincial Village Courts Officer or a Village Courts Officer, as the case may be, shall take possession of -

- (a) the books and records of the Village Court; and
- (b) the badges and other insignia of Office issued under Section 47 and properties or things issued under Section 50; and
- (c) the certificates of appointment (if any) of the Village Court Officials.

(3) The Provincial Supervising Magistrate shall transfer to a Local Court such proceedings pending in the dissolved Village Court at the date of dissolution and the Minister shall publish, by notice in the Provincial Gazette and by such other means as he considers appropriate -

- (a) the dissolution of the Village Court; and
- (b) the proceedings transferred under this Subsection.

(4) Where a Village Court is dissolved under this Section, the appointment of all Village Court Officials is deemed to be revoked.

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(5) All the Law and Order functions in the dissolved Village Court area shall come under the jurisdiction of the Local Courts and the District Courts in the Province.

(6) A Village Court so dissolved under this Division shall not be re-established under after the expiry of five years calculated from the date of dissolution of the said Village Court.

(7) Subsection (6) does not affect the power of the Minister, acting on advice of the Provincial Executive Council, to establish or re-establish, under this Part, a Village Court for whole or any part of the area of the Village Court that has been dissolved under this Section.

## **DIVISION 2 - VILLAGE MAGISTRATES ETC.**

### **17. RECOMMENDATION AS TO APPOINTMENT OF VILLAGE MAGISTRATES.**

As soon as practicable after the establishment of a Village Court, and afterwards as necessary, the Provincial Administrator shall, after consultation with the Local Level Government Body, submit to the Minister the names of persons to be appointed Village Magistrates for the Village Court.

### **18. APPOINTMENT OF VILLAGE MAGISTRATES.**

(1) On receipt of the names of the persons referred to in Section 17, the Minister shall, subject to Subsection (2), appoint, by notice in the National Gazette, those persons to be Village Magistrates for the Village Court in respect of which their names are submitted.

(2) The Regulations may fix the minimum number of Village Magistrates to be appointed to a Village Court.

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(3) Nothing in this Section prevents the appointment of a person to be a Village Magistrate for more than one Village Court.

**19. TERMS AND CONDITIONS OF APPOINTMENT OF VILLAGE MAGISTRATES.**

(1) A Village Magistrates holds office subject to good behaviour.

(2) Subject to Subsection (1) the terms and conditions of appointment of Village Magistrates are as prescribed.

**20. SUSPENSION OF VILLAGE MAGISTRATES.**

The Provincial Administrator, acting on the recommendation of the Provincial Village Courts Officer, shall suspend a Village Magistrate with or without pay.

**21. VACATION OF OFFICE BY VILLAGE MAGISTRATE, ETC.**

(1) Where a Village Magistrate –

(a) becomes permanently incapable of performing his duties; or

(b) misconducts himself; or

(c) persistently fails to attend to his duties.

The National Minister, acting on the recommendation of the Provincial Administrator made after consultation with the Local Level Government body, shall, by notice in the National Gazette, terminate his appointment.

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(2) A Village Magistrate may, by written notice to the Provincial Administrator, tender, his resignation and on receipt of the notice, the Minister shall by notice in the National Gazette terminate the Magistrate's appointment.

(3) A Village Magistrate whose appointment is terminated in accordance with Subsection (1) is not eligible for reappointment as a Village Court Officials.

#### **22. CHAIRMAN AND DEPUTY CHAIRMAN.**

(1) The Minister may appoint a Village Magistrate appointed for a Court to be the Chairman or the Court, and if he thinks fit, appoint another such Village Magistrate to be the Deputy Chairman of the Court.

(2) The Chairman and the Deputy Chairman shall exercise a general supervision over the affairs of the Court.

(3) The Chairman and Deputy Chairman hold office as such during the pleasure of the Minister.

### **DIVISION 3 – COURT CLERKS AND VILLAGE PEACE OFFICERS.**

#### **23. VILLAGE COUR CLERKS.**

(1) The Provincial Administrator may appoint for each Village Court, a Village Court Clerk and a number of Deputy Village Court Clerks.

(2) Village Court Clerks and Deputy Village Court Clerks have such duties and responsibilities as are prescribed.

(3) The Regulations may fix the number of Village Court Clerks, the Deputy Village Court Clerks and the Village Peace Officers to be appointed to a Village Court.

**24. VILLAGE PEACE OFFICERS.**

(1) The Provincial Administrator may appoint persons to be Village Peace Officers for the area of a Village Court.

(2) Except as otherwise provided by any law, the functions, duties and responsibilities of a Village Peace Officer shall be performed or exercised only in the area of the Village Court for which he was appointed.

(3) Nothing in Subsection (2) prevents the appointment of a person to be a Village Peace Officer for the area of more than one Village Court.

**25. FUNCTIONS AND DUTIES ETC., OF VILLAGE PEACE OFFICERS.**

(1) A Village Peace Officer is an Officer of the Village Court and his primary functions are to assist the Court and to enforce, or assist in enforcing, the decisions or orders of the Court.

(2) A Village Peace Officer has the same powers as a Village Peace Officer under the National Act.

**26. TERMS AND CONDITIONS OF APPOINTMENT.**

The terms and conditions of appointment of Village Court Clerks, Deputy Village Court Clerks and Village Peace Officers are as prescribed.

**27. REVOCATION, ETC., OF APPOINTMENT.**

(1) The Provincial Administrator may, at anytime, suspend or revoke the appointment of a Village Court Clerk, Deputy Village Court Clerk or a Village Peace Officer.

(2) Where under Subsection (1), the Provincial Administrator revokes an appointment because he is of the opinion that the Village Court Official affected thereby -

- (a) is permanently incapable of performing his duties; or
- (b) is guilty of misconduct or of neglect of duty,

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The Official so affected shall not be eligible for reappointment in any capacity of Village Court Official and the Provincial Village Courts Officer shall certify accordingly.

(3) The Officials, where whose appointment is suspended, under Subsection (1) shall be with or without pay.

(4) A Village Court Official appointed under Section 23 (1) and 24 (1) may, by written notice to the Provincial Village Courts Officer tender his resignation and on receipt of the notice, the Provincial Village Courts Officer shall by notice in the Provincial Gazette terminate the Officials appointment.

**DIVISION 4 – CONSTITUTION AND SITTING OF VILLAGE COURTS.**

**28. CONSTITUTION OF VILLAGE COURTS.**

(1) Subject to Section 29, a Village Court shall be constituted by an odd number (not being less than three), of Village Magistrates.

(2) Subject to Subsection (1), at sitting of a Village Court, the Chairman of the Village Court shall preside and, in the absence of the Chairman, the Deputy Chairman shall preside.

(3) Where -

(a) the Chairman and the Deputy Chairman are absent; or

(b) there is no Chairman or Deputy Chairman, the Village Magistrates constituting the Village Court shall appoint one of their number of Preside.

(4) A decision of a Village Court shall be by majority vote.

29. **ONE VILLAGE MAGISTRATE TO CONSTITUTE VILLAGE COURT.**

Notwithstanding Section 28 where custom provides for a system of chiefs or chieftainship, the National Minister may, in respect of a specified Village Court, by notice in the National Gazette, declare that a Village Magistrate sitting alone shall constitute that Village Court.

30. **PLACE OF SITTINGS.**

A Village Court may sit at any place in the area for which it is established and may adjourn from time to time and from place to place.

**DIVISION 5 – INSPECTIONS OF VILLAGE COURTS.**

31. **MINISTER MAY CAUSE INSPECTION.**

Where the Minister so wishes may, cause an inspection to be made to determine whether a Village Court so established is acting within the jurisdiction and powers conferred by this Act, (or the National Act).

32. **PROVINCIAL ADMINISTRATOR MAY DIRECT INSPECTIONS.**

The Provincial Administrator may, in respect of a specified Village Court, direct the Provincial Village Court Officer to ensure that the Village Court and its records are inspected at such intervals as the Provincial Administrator may determine and that a report of each such inspection is submitted promptly in accordance with any directions the Provincial Administrator may make concerning such reports.

33. **PROVINCIAL VILLAGE COURT OFFICERS MAY DIRECT.**

(1) The Provincial Village Courts Officer may, in respect of a Specified Village Court, direct a Village Court Officer or an Inspector -

- (a) to inspect the Court Order Books and other records of the Village Court; and

: 19 :

- (b) to inquire into and to supervise in the general functioning of the Village Court; and
- (c) to point out to the Village Court officials any defects in practice or procedure; and
- (d) to encourage the adoption of practices and procedures recommend by the provincial legislature or a Local Level Government; and
- (e) to inspect and take extracts from Court fine records or any other record kept or held by Village Court Officials; and
- (f) to submit reports of inspections within a specified period.

to the Provincial Village Courts Officer.

(2) The Provincial Village Courts Officer may, as soon as practicable after the receipt of the inspection report under Subsection (1), report to the Minister or the Provincial Administrator any –

- (a) measures that are desirable for achieving the purpose of this Act and for improving the Village Court system; and
- (b) defects in practice or procedure or malpractice by the Village Courts and for any other matters, for liability for an act, default or omission or for relief under this Act.

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**DIVISION 6 - REPORTS.**

**34. MONTHLY REPORTS.**

(1) Each Village Court or the Village Court clerk shall prior to the end of each calendar month submit, to the Provincial Village Courts Officer or the Village Courts Officer in the district, a report reviewing the operations of the Village Court for the month in that year.

(2) The reports under Subsection (1) shall be recorded in the prescribed form or recorded in any other approved form, the Provincial Village Courts Officer may, from time to time, issue to the Village Courts.

(3) Notwithstanding Subsection (1) a Village Court Clerk who persistently fails to submit monthly reports under this Section is, deemed to be failing or neglecting duty and shall be dealt with in accordance with Section 27 of the Act.

**DIVISION 7 – CONDITIONS OF SERVICE, RENUMERATION, ETC.**

**35. TERMS AND CONDITIONS, ETC. OF APPOINTMENT.**

(1) The terms and conditions of service of –

- (a) Village Magistrates; and
- (b) Village Courts Clerks; and
- (c) Deputy Village Courts Clerks; and
- (d) Village Peace Officers are as prescribed.

(2) In accordance with Subsection (1), pay or allowances are payable each calendar month on same or equivalent rate or rates under this Act or an Act of provincial legislature.

(3) Subject to approval by the Provincial by the Provincial Executive Council, the Provincial Governor or may recommend rates of pay or allowances in a gradual scale, for Village Court Officials.

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(4) The Regulation to this Act may make provisions for other terms and conditions for Village Court Officials.

**36. MINIMUM CONDITION OF EMPLOYMENT.**

(1) Notwithstanding the provisions of Division 2 and 3 of this Act, where it is applicable and subject to certification of matters under this Section, a Village Court Officials on the grounds of -

- (a) old age; or
- (b) ill health; or
- (c) other disabilities; or
- (d) length of service under Subsection

(3) may voluntarily retire as an official of the Village Court.

(2) In accordance with Section (1), the Provincial Village Courts Officer with prior consultation with the Minister, may cause retirement of a Village Court Officials.

(3) The length of period of employment, or the long service, shall be calculated for the period of employment in the Village Court, the Provincial Village Courts Officer shall certify.

**37. RETIREMENT BENEFIT, ETC.**

(1) A Village Court Official whose employment has been affected by Section 36 or a Provincial Law or any other law shall be entitled for retirement benefit or gratuity or ex-gratia payment, as the case may be, for the period of employment.

(2) This Section does not apply to officials terminated under the Section 21 (2) and Section 27 (1) and (4).

**38. BENEFIT APPROPRIATION.**

The Provincial Government shall each financial year or as necessary appropriate a minimum amount of money in its annual budgets for retirement benefit or ex-gratia or gratuity payment to the Village Court Officials on retirement.

**PART IV – FUNCTIONS AND DUTIES OF PROVINCIAL SUPERVISING MAGISTRATES AND OTHER MAGISTRATES, ETC.**

**39. APPOINTMENT UNDER NATIONAL ACT.**

Appointments under this Part, in so far as Village Courts established under this Act is concerned, are in accordance with Section 15 of the National Act.

**40. PROVINCIAL SUPERVISING MAGISTRATE, ETC.**

(1) A Provincial Supervising Magistrates, a Deputy Provincial Supervising Magistrates, a District Court Magistrate and a Local Court Magistrate have powers vested, immediately before coming into operation of this Act, under the Village Courts Act 1989.

(2) A Provincial Supervising Magistrate may direct any of the Magistrates under Subsection (1) to exercise or perform all or some of the functions or duties of the Provincial Supervising Magistrate under Division 1 of Part III.

**PART V – FINES, ENFORCEMENT ETC, OF VILLAGE COURTS.**

**41. DISPOSAL OF FINES AND FEES.**

(1) All –

- (a) fees chargeable in respect of matters before
- (b) fines, penalties and forfeitures ordered by a Village Court, are specified and payable.

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(2) Notwithstanding the provisions of Subsection (1), penalties and failure to obey certain orders under the National Act or this Act are payable to the Provincial or Local Level Government Body where the Village Court is situated.

**42. PENALTIES.**

(1) In accordance with Section 41 and in the exercise of the jurisdiction referred to in Section 46, a Village Court may order an offender to pay, in cash or in goods, a fine, not exceeding.

- (a) K20.00; or
- (b) The amount fixed in the rule; or
- (c) The amount fixed in the law whichever is the lesser.

(2) A Village Court may, instead of imposing a penalty under Subsection (1), order an offender or a party to perform, for Community purposes, specified work or work of a specified kind, of a periods not exceeding.

- (a) 8 hours in any 1 day; and
- (b) 6 days in any 1 week; and
- (c) a total period of 4 months

in such manner, at such times and subject to such conditions as to supervision or otherwise, as are specified in the order.

**PART VI – VILLAGE PEACE OFFICERS.**

**43. FUNCTIONS IN RELATION TO KEEPING THE PEACE.**

(1) Where –

- (a) a fight or violence to the person or property or other breach of the peace occurs; or

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- (b) a Village Peace Officer has reason to believe that a fight or violence to the person or property or other breach of the peace may occur, the Village Peace Officer may order any person -
- (c) to keep the peace, or
- (d) to refrain from doing anything that may cause a breach of the peace.

(2) Prosecution for an offence against this Section may be brought in a Village Court.

**44. POWERS OF ARREST.**

(1) Where –

- (a) a Village Peace Officer suspects that a person -
  - (i) is about to commit an offence; or
  - (ii) is committing an offence; or
  - (iii) has committed an offence; and

(b) the offence appears to the Village Peace Officer to be within the jurisdiction of the Village Courts, the Peace Officer may arrest the person.

(2) A Village Peace Officer shall arrest a person when directed to do so by a Village Magistrate.

(3) Where a Village Peace Officer arrests a person under Subsection (1) or (2), he shall take the person before a Village Court as soon as practicable and in any event within the next court sitting or during a special court sitting convened of the Village Court concerned.

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45. **APPLICATION OF SECTION 207 OF THE CONSTITUTION TO VILLAGE PEACE OFFICER ASSISTING POLICE.**

A Village Peace Officer appointed under this Act may act under the direction of a member of the Police Force, for the purpose of assisting in the performance of the function of duties of the member on the Force.

**PART VII – ADMINISTRATION OF JUSTICE, ETC.**

46. **VESTED JURISDICTION OR POWER OF VILLAGE COURTS.**

(1) The jurisdiction of Village Courts established under the Act are, as permitted by and subject to Section 42 of **Organic Law on Provincial and Local Level Governments**, have the jurisdiction vested, immediately before the coming into operation of this Act, in Village Courts established under the **Village Courts Act 1989**.

**PART VIII – MISCELLANEOUS.**

47. **BADGES AND INSIGNIA OF OFFICE.**

The Provincial Administrator may cause to be issued to Village Magistrates, Village Peace Officers, Village Court Clerks and Deputy Village Court Clerks badges and other insignia of office approved by the Provincial Executive Council.

48. **UNAUTHORIZED PERSON WEARING INSIGNIA, ETC.**

A person who is not a Village Magistrate, Village Peace Officer, Village Court Clerk or Deputy Village Court Clerk, as the case may be, who without lawful excuse (proof of which is him) -

- (a) is in possession of, or wears, badges of office or other insignia issued under Section 18 or a colorable imitation of any such badges or insignia; or

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- (b) assumes the description or designation of such a person; or
- (c) falsely holds himself out to be such a person, is guilty of an offence.

**Penalty:** A fine not exceeding K100.00 or Imprisonment for a term not exceeding three months.

**49. SUPPLYING ETC., UNAUTHORIZED INSIGNIA.**

A person who unlawfully -

- (a) sells or supplies to another person; or
- (b) employs or induces a person who is not a Village Magistrate, Village Peace Officer, Village Court Clerk or Deputy Village Court Clerk, as the case may be, to wear, badges or other insignia issued used Section 18, or a colorable imitation of any such badges or insignia, is guilty of an offence.

**Penalty:** A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

**50. UNAUTHORIZED PERSONS USING PROPERTY OF VILLAGE COURTS.**

A person who, not being a Village Court Officials, without lawful excuse (proof of which is on him) is in possession of, or uses -

- (a) a motor vehicle; or
- (b) an outboard motor engine or an engine; or

***Provincial Village Courts.***

(c) a dinghy or a canoe purchased or issued by the Provincial Government or a Local Level Government Body or an Officer under this Act, or the Regulations is guilty of an offence.

**Penalty:** a fine not exceeding K100.00 or imprisonment for a term not exceeding two months.

**51. PROSECUTION OF OFFENCES.**

A prosecution for an offence under Section 48, 49 or 50 shall not be brought in a Village Court.

**52. REGULATIONS.**

The Provincial Executive Council may make regulations (including regulations setting fees to be paid in respect of matters coming before Village Courts) not inconsistent with this Act, which are required by, or necessary to, this Act or are convenient to assist in the administration of this Act.

**PART VIII - TRANSITIONAL**

**53. TRANSITIONAL.**

(1) All actions which, immediately before the coming into operation of this Act, were pending before a Village Courts established under the National Act shall, on the coming into operations be transferred to the corresponding Village Court established under this Act.

(2) All court orders, fines and other penalties which were made or imposed by a Village Court established under the National Act and which had not, immediately before the coming into operation of this Act, been complied with or paid, shall on the coming into operation of this Act, in so far as they have not been so complied with or paid, continues in force and shall be complied with or paid as if they were orders made or penalties imposed by a corresponding Village Court established under this Act.

**SCHEDULE 1**

---

**JUDICIAL DECLARATION BY VILLAGE MAGISTRATE**

**JUDICIAL DECLARATION**

I, ....., do promise and declare that, I will well and truly serve the Independent State of Papua New Guinea, and its people in the office of ....., that I will in all things uphold the Constitution and the laws of the Independent State of Papua New Guinea, and I will do right to all manner of people in accordance therewith, without fear or favour, affection or ill – will.

.....

Date: .....

.....

Senior Provincial Magistrate.

Date: .....

**OATH AND AFFIRMATION BY VILLAGE PEACE OFFICER  
AND VILLAGE COURT CLERK**

**OATH**

I, ....., swear that I will render true and faithful service as a ..... of ..... Village Court in the Province.

**SIGNATURE:** .....

**DATE:** .....

**AFFIRMATION**

I, ....., do solemnly and sincerely affirm and declare that I will render true and faithful service as Village Court in the ..... Province.

**SIGNATURE:** .....

**DATE :** .....

# **VILLAGE COURTS REGULATION**

## **ARRANGEMENT OF SECTIONS**

1. INTERPRETATION -
  - “Council area”
  - “Local Level Government area”
  - “the Act”
2. CONDITION OF SERVICE OF VILLAGE COURT OFFICIALS.
3. PRESCRIBED OFFENCES.
4. JUDICIAL DECLARATION AND, OATH OF OFFICE.
5. CRITERIA FOR SELECTION FOR VILLAGE COURT OFFICIALS.
6. MINIMUM NUMBER FOR VILLAGE COURT OFFICIALS.
7. ESTABLISHMENT CEILING.
8. FORM OF ORDER BOOKS, ETC.
9. AUTHENTICATION OF DOCUMENTS.
10. SCHEDULE:
  - Schedule 1: Oath and Affirmation of Village Court Officials, etc.
  - Schedule 2: Settlement Order.
    - : Preventive Order.
    - : Order
    - : Order for Imprisonment.
    - : Official Receipt Book.

- : Record of Appeals/Review.
- : Village Court Inspection form.
- : Statement of fines collected by a Village Court.
- : Village Courts Monthly Return.
- : Certificate of Appointment - Form 10.
- : Warrant of Execution – Form 11.
- : Summons – Form 12.
- : Warrant of Arrest – Form 13.
- : Recommendation for Appointment of Village Magistrates – VCF5.
- : Recommendation for Appointment of Chairman and Deputy Chairmen – VCF 7.
- : Recommendation for Revocation of appointment of Chairmen and Deputy Chairmen - VCF 8.
- : Revocation of Appointments of Village Magistrates.
- : Recommendations for Revocation of Appointments of Village Magistrates – VCF 3.
- : Revocations and Appointments of Village Peace Officers – VCF 2.
- : Revocations and Appointments of Village Court Clerks.

## **VILLAGE COURTS REGULATION**

**MADE under the Village Courts Act 1989**

### **1. INTERPRETATION.**

- (1) In this Regulation unless the contrary intention appears “Council area” means the area in and for which a Local Government Council or Local Level Government is established under the Local Government Act or Local Level Government Act, as in force from time to time.

“Local Level Government Area” means Local Level Government area established in accordance with Sections 26 27 of the Organic Law on Provincial and Local Level Governments.

“the Act “means the Village Courts Act 1989 as in force from time to time.

- (2) In this Regulation, a reference to a form by number shall be read as a reference to a form so numbered in the Schedule.

### **2. CONDITIONS OF SERVICES OF VILLAGE COURT OFFICIALS, ETC.**

The Provincial and Local Level Government shall pay: -

- (a) to each Chairman of a Village Court, remuneration at the rate of K910.00 per annum.
- (b) to each Deputy Chairman of a Village Court, remuneration at the rate of K845.00 per annum.
- (c) to each Village Magistrate of a Village Court, remuneration at the rate of K780.00.
- (d) to each Peace Officer of a Village Court, remuneration at the rate of K715.00.
- (e) to each Village Court Clerk of a Village Court, remuneration at the rate of K715.00 per annum.

3. **PRESCRIBED OFFENCES.**

The following are prescribed offences for the purposes of Section 41 of the Act:-

- (a) the taking or keeping of the property of another person where the value of the property does not exceed K100.00, without the consent of the owner; or
- (b) the striking of another person without reasonable cause, or
- (c) using insulting words or conduct; or
- (d) using threatening words or conduct; or
- (e) using offensive words or conduct; or
- (f) assaulting another person; including wife and husband beating is an offence; or
- (g) intentional damage to trees, plants or crops belonging to another person; or
- (h) intentional damage to any other property belonging to another person; or
- (i) making a false statement concerning another person that, offends or upsets him/her; or
- (j) spreading false report that are liable to cause alarm, fear or discontent in the Village/Community; or
- (k) conduct that disturbs the peace, quiet and good order of the Village/Community, or of a resident of the Village/Community; or
- (l) found drunk and disorderly in the Village Court area; or
- (m) carrying weapons so as to cause alarm to others in the Village Court area; or

- (n) having an affair with another person thereby, causing discontent in the community.
- (o) failure to comply with Council or Local Level Government rules; or
- (p) failure to perform customary duties or to meet customary obligations after having been informed of them by a Village Magistrate; or
- (q) failure to comply with the direction of a Village Magistrate with regard to hygiene or cleanliness within a Village Court area; or
- (r) failure to repay debts after having been informed of by a Village Magistrate.
- (s) Sorcery, including:-
  - (i) practicing or pretending to practice sorcery; or
  - (ii) threatening any person with sorcery practiced by another; or
  - (iii) procuring or attempting to procure a person to practice or pretend to practice, or to assist in sorcery; or
  - (iv) the possession of implements or charms used in practicing sorcery; or
  - (v) paying or offering to pay a person to perform acts to sorcery.

**4. JUDICIAL DECLARATION, OATH, ETC., OF OFFICE OF VILLAGE COURT OFFICIALS.**

- (i) Before proceeding to perform the duties or exercise the powers of a Village Magistrate, Peace Officer and Village Court Clerk, a Village Court Officials shall take an Judicial Declaration, Oath or make an Affirmation in the form in Schedule 1.
- (ii) In accordance with Subsection (1), a Village Court Official shall be issued with a Certificate of Appointment (F10), uniforms, badges and other insignia as necessary as a Village Court Officials.

- (iii) It shall be a requirement for any Village Court Official to take an Judicial Declaration, Oath or Affirmation of Office under the Section, prior to performing the duties or exercising the powers and functions of a Village Court where he/she appointed.

**5. CRITERIA FOR SELECTION FOR VILLAGE COURT OFFICIALS.**

Subject to Section 10 of the Act, where a Village Court is established on or for an area described in the proclamation, criteria or method for appointment for Village Court Officials number for any one Court area, is in accordance wit the following requirements:-

- (a) population density and distribution in an urban or rural area; or
- (b) language or dialect groupings; or
- (c) distance between Villages or island groups.
- (d) in accordance with existing Local Level Government Council Wards or Provincial electorate boundaries.

**6. MINIMUM NUMBER OF VILLAGE COURT OFFICIALS.**

Not with standing Section 5 of this Regulation the minimum number for appointment as Village Court Officials are:-

- (a) there shall not be less than three nor more than 10 Village Magistrates for each Village Court;
- (b) for Village Peace Officers is as determine under Section 24 of the Act; and
- (c) for Village Court Clerks is an odd number one and whereas, Deputy Court Clerks is in accordance with Section 23 of the Act.

**7. ESTABLISHMENT CEILING.**

The establishment ceiling shall determined and fixed by the Provincial Village Courts Officer for each and every Village Court in the Province in accordance with Section 5 of this Regulation.

8. **COURT ORDER BOOKS, FORMS, ETC.**

- (1) As provided under the National Act, the Village Courts Order Book are:-
  - (a) Settlement Order (Form 1); and
  - (b) Preventive Order (Form 3); and
  - (c) Order (Form 5); and
  - (d) Order for Imprisonment (Form 7) are adopted.
- (2) Forms for appointment and revocation of Village Court Officials, receipt books and other specified books and forms such as provided for under the National Act are adopted.
- (3) The Provincial Administrator may prescribe to produce or print or issue other books, forms and records that are necessary or convenient for carrying out or giving effect to this Act.
- (4) Notwithstanding Section of the Act badges and other insignia and certificate of appointment of Village Court Officials printed and issued under the National Act area adopted.
- (5) Forms of Order Book, other forms and books are as prescribed or classified and adopted in the Schedule 2, hereto.

9. **AUTHENTICATION OF DOCUMENTS.**

- (1) There shall be a Village Court Seal, and shall be impressed with:-
  - (a) the "name" of the Village Court followed by the words "**Village Court**"; and
  - (b) the words "\_\_\_\_\_"; and
  - (c) the words "**Common Seal**" in between.

- (2) It is a sufficient authentication of:-
- (a) an information, complaint or other legal processes; or
  - (b) an order, notice or direction issued by a Village Court under this Act;

that is not impressed with the Seal of the Village Court if, it is signed by:-

- (c) the Magistrate Chairman; or
  - (d) any Village Magistrate; or
  - (e) the Village Court Clerk; or the Deputy Village Court Clerk, authorized by this Act.
- (3) Notwithstanding Subsection (2), it is a requirement under this Regulation for all documents specified, are impressed with the Village Court Common Seal.

**10. RECORD OF SETTLEMENT BY MEDIATION.**

- (1) A Village Court or a Village Magistrate shall, as soon as possible after arriving at the Settlement of a dispute by mediation under Division 6 of the Village Courts Act 1989; make, or cause to be made, a record of the agreement in Form 1.
- (2) A copy of the record made under Subsection (1) shall be served where practicable on the party or parties specified in the order.

**11. RECORD OF PREVENTIVE ORDERS.**

- (1) A Village Court or a Village Magistrate shall as soon as practicable after making an order, make, or cause to be made, a record of the order:-
  - (a) in the case of an order relating to -
    - (i) the payment by an offender of compensation or damages; or
    - (ii) the payment by an offender of a fine; or

: 8 :

- (iii) the performance by an offender of Community work order or works of a specific kind, in Form 5, or
  - (b) in the case of an order for the imprisonment of an offenders - in Form 7.
- (2) Where practicable, a copy of a record made under subsection (1) shall be served on the party or parties specified in the order.

---

**SCHEDULE 2**

---

COURT ORDER BOOKS, FORMS ETC.

PAPUA NEW GUINEA

Form 1

***Village Courts Act 1989***

SETTLEMENT ORDER

Oda Bilong Stretim Trabel

VILLAGE MAGISTRATE .....

Viles Masistret .....  
.....

CLERK .....  
Kuskus

COMPLAINT OF..... OF .....  
Toktok bilong (NAME, Nm) bilong (VILLAGE, Ples)

AGAINST  
i go long

DEFENDANT..... OF.....  
Husat l gat kot (NAME, Nm) bilong (VILLAGE, Ples)

STATEMENT OF COMPLAINT.....  
Wari em l olsem

.....  
.....  
.....  
.....

DATE OF HEARING  
Ol yet i stretim kros

PLACE OF HEARING  
Kot istap long

DISPUTE SETTLED ON MEDIATION BETWEEN PARTIES.

De bilong kot

SETTLEMENT IN FOLLOWING TERMS AGREED ON IN PRESENCE OF

Long i bilong masistrete, olgeta i orait long stretim olsem: .....

MAGISTRATE  
(Name)

.....  
.....  
.....  
.....

Date .....  
De /

.....  
VILLAGE MAGISTRATE/  
VILLAGE COURT CLERK/  
DEPUTY VILLAGE COURT CLERK/  
Masistret/Kuskus

PAPUA NEW GUINEA

**Village Courts Act 1989**

**PREVENTIVE ORDER**

Oda Bilong Pasim Trabel I Laik Kirap

VILLAGE MAGISTRATE ..... OF.....  
Viles Masistret bilong

DATE OF ORDER.....  
De bilong oda

ON WHOM MADE ..... OF .....  
I go long (NAME, Nem) bilong (VILLAGE, Ples)

I ..... (VILLAGE MAGISTRATE, Viles Masistret)

BELIEVING THAT A DISPUTE, OR A THREATENED DISPUTE, MAY CAUSE A BREACH OF THE PEACE.  
Tingting olsem klostu bai trabel I kirap bagarapim gutpela sindaun long ples.

I DO ORDER THAT ..... OF .....  
Mi oda olsem (NAME, Nem) bilong (VILLAGE, Ples)

I, .....  
.....  
.....  
.....  
.....  
.....

(2) AND THAT YOU MUST APPEAR BEFORE THE VILLAGE COURT AT  
Na yu mas kamap long Viles Kot long. ....  
(PLACE, Ples)

AT ..... DATE .....  
Taim De

.....  
VILLAGE MAGISTRATE OR CLERK (Signature)  
Viles Masistret o Kuskus (raitm nem)

NOTE:

IF YOU DISOBEY THIS ORDER YOU MAY BE FINED K1,000 OR  
IMPRISONED FOR SIX MONTHS.

Sapos yu sakim dispela oda inap long yu baim kot long K1,000 o  
Kalabus sikis mun.

*Village Courts Act 1989*

**ORDER**

..... VILLAGE COURTS (Viles Kot)

VILLAGE MAGISTRATES, Viles Magistret

..... OF ..... VILLAGE  
bilong Ples

.....  
.....  
.....  
.....  
.....

CLERK, Kuskus ..... OF ..... (NAME, Nem)  
Wari bilong bilong Ples

STATEMENT OF COMPLAINT .....

Wari em i olsem .....  
.....  
.....  
.....  
.....

DATE OF HEARING.....PLACE OF HEARING .....  
De bilong kot Kot i stap long

DEFENDANT PRESENT.....PRESENTED BY.....  
Man i gat Kot i Kamap long Husat i helpim  
Kot o nogat long toktok?

WITNESSES EXAMINED .....  
Nem bilong ol witness i givim .....  
Tok long kot .....



*Village Courts Act 1989*

**ORDER FOR IMPRISONMENT**

Oda bilong kalabus

ON THE.....(DATE) .....(NAME)  
Tude (de) (Nem)

OF.....VILLAGE, WAS SENTENCED TO  
Bilong Ples, em i kisim kalabus inap long

.....IMPRISONMENT FOR FAILING TO OBEY THE COURTS  
(Period of Imprisonment) long wanem em I bin sakin oda bilong  
(Haumas Kalabus) kot.

*SETTLEMENT	*PREVENTIVE	ORDER
*Bilong stretim trabel	*bilong pasim trabel	Oda
	laik kamap	

CASE NUMBER .....  
Namba bilong kot bilong pastaim

WHICH WAS .....

Oda bilong kot bilong pastaim em I olsem .....

.....  
.....  
.....  
.....

MADE ON .....DATE BY .....VILLAGE COURT  
De bilong kot bilong pastaim long Viles Kot

.....  
\*VILLAGE MAGISTRATE (Viles Masistret)  
\*VILLAGE COURT CLERK (Kuskus)



ENDORSED UNDER SECTION 68 (FOR LOCAL OR DISTRICT COURT ONLY)

(Dispela hap bilong Lokal o Distrik Kot tasol)

THE ABOVE ORDER FOR IMPRISONMENT WAS ENDORSED BY ME ON

THE DAY OF.....19 .....

\*LOCAL COURT MAGISTRATE

\*DISTRICT COURT MAGISTRATE

A WARRANT OF COMMITMENT WAS ISSUED BY ME THIS DATE. THE SENTENCE IS TO RUN

FROM.....\*THE DATE OF ARREST OF THE DEFENDANT

\*THE DATE ON WHICH THE DEFENDANT WAS TAKEN INTO CUSTODY.

\*(Cross out whichever is not applicable).

*Village Courts Act 1989*

**SETTLEMENT ORDER**

Oda Bilong Stretim Trabel

VILLAGE MAGISTRATE.....

Viles Masistret .....

.....

CLERK

Kuskus .....

COMPLAINT OF..... OF.....

Toktok bilong (NAME, Nem) bilong (VILLAGE, Ples)

AGAINST

I go long

DEFENDANT.....OF.....

Husat i gat kot (NAME, Nem) bilong (VILLAGE, Ples)

STATEMENT OF COMPLAINT .....

Wari em i olsem

.....  
.....  
.....  
.....  
.....

DATE OF HEARING .....PLACE OF HEARING .....

Oi yet i stretim kros Kot istap long

DISPUTE SETTLED ON MEDIATION BETWEEN PARTIES.

De bilong kot

SETTLEMENT IN FOLLOWING TERMS AGREED ON IN  
PRESENCE OF

Long ai bilong masistret, olgeta l orait long stretim  
Olsem.

.....  
MAGISTRATE  
(Name)

.....  
.....  
.....  
.....  
.....  
.....  
.....

Date .....  
De .....

.....  
VILLAGE MAGISTRATE/  
VILLAGE COURT CLERK/  
DEPUTY VILLAGE COURT CLERK/  
Masistret/Kuskus



(2) AND THAT YOU MUST APPEAR BEFORE THE VILLAGE COURT AT.....  
Na yu mas kamap long Viles Kot long (PLACE, ples)

AT.....DATE.....  
Taim De

.....  
VILLAGE MAGISTRATE OR CLERK (Signature)  
Viles Masistret o Kuskus (raitim nem).

NOTE:

IF YOU DISOBEY THIS ORDER YOU MAY BE FINED K1,000 OR IMPRISONED FOR SIX MONTHS.  
Sapos yu sakim dispela oda inap long yu baim kot long K1,000 o kalabus sikis mun.

*Village Courts Act 1989*

**ORDER**

Oda

.....VILLAGE COURTS (Viles Kot).  
VILLAGE MAGISTRATES, Viles Magistret.

.....OF.....VILLAGE  
bilong Ples

.....  
.....  
.....  
.....  
.....  
.....

CLERK, Kuskus.....(NAME, Nem)

COMPLAINT OF.....OF.....VILLAGE  
Wari bilong bilong Ples.

AGAINST  
I go long

.....OF.....VILLAGE  
(DEFENDANT, Man i gat kot) bilong Ples

STATEMENT OF COMPLAINT .....  
Wari em i olsem.....

.....  
.....  
.....  
.....



*Village Courts Act 1989*

**ORDER FOR IMPRISONMENT**

Oda bilong kalabus

ON THE .....(DATE).....(NAME)  
Tude (de) (Nem)

OF..... VILLAGE, WAS SENTENCED TO  
Bilong Ples, em I kisim kalabus inap long

.....IMPRISONMENT FOR FAILING TO OBEY THE COURTS  
(Period of Imprisonment) long wanem em I bin sakim oda bilong kot  
(Haumas Kalabus)

\*SETTLEMENT \*PREVENTIVE ORDER  
\*Bilong stretim trabel \*bilong pasim trabel I laik kamap Oda.

CASE NUMBER.....  
Namba bilong kot bilong pastaim.

WHICH WAS.....  
Oda bilong kot bilong pastim em i  
olsem.....  
.....  
.....  
.....  
.....  
.....  
.....

MADE ON..... DATE BY..... VILLAGE COURT  
De bilong kot bilong pastaim long Viles Kot

.....  
\*VILLAGE MAGISTRATE (Viles Masistret)  
\*VILLAGE COURT CLERK (Kuskus)

---

\_\_\_\_\_  
ENDORSED UNDER SECTION 68 (FOR LOCAL OR DISTRICT COURT ONLY)

(Dispela hap bilong Lokai o Distrik Kot tasol)

THE ABOVE ORDER FOR IMPRISONMENT WAS ENDORSED BY ME ON THE  
..... DAY OF ..... 19.....

.....  
\*LOCAL COURT MAGISTRATE  
\*DISTRICT COURT MAGISTRATE.

A WARRANT OF COMMITMENT WAS ISSUED BY ME THIS DATE. THE  
SENTENCE IS TO RUN FROM .....

\*THE DATE OF ARREST OF THE DEFENDANT  
\*THE DATE ON WHICH THE DEFENDANT WAS  
TAKEN INTO CUSTODY.

..... Village Court.

**N 21251**

Received from.....of.....Village  
The sum of .....Kina and .....Toea K.....  
Order Number.....

Govt.Print---433/500 Books---8.94 .....Clerk/Magistrate

..... Village Court.

**N 21252**

Received from.....of.....Village  
The sum of .....Kina and .....Toea K.....  
Order Number.....

Govt.Print---433/500 Books---8.94. ....Clerk/Magistrate

.....Village Court.

**N 21253**

Received from.....of.....Village  
The sum of .....Kina and .....Toea K.....  
Order Number.....

Govt.Print---433/500 Books---8.94. ....Clerk/Magistrate

.....Village Court.

**N 21254**

Received from.....of.....Village  
The sum of .....Kina and .....Toea K.....  
Order Number.....

Govt.Print---433/500 Books---8.94 .....Clerk/Magistrate

.....Village Court.

**N 21255**

Received from.....of.....Village  
The sum of .....Kina and .....Toea K.....  
Order Number.....

Govt.Print---433/500 Books---8.94. ....Clerk/Magistrate.

**PAPUA NEW GUINEA**

**Corrective Institutions Act (Chapter 53)**

**WARRANT OF COMMITMENT**

(Where the defendant has failed to obey an order to pay Court fine/compensation as ordered by the Village Court).

**WHEREAS** on the .....day of.....19 .....  
the..... Village Court  
convicted

Name: .....

Village.....

Sex: .....

Address: .....

Of an offence of non-payment of fine/compensation without reasonable excuse, an order to pay court fine and compensation to the said Village Court and ordered him to be imprisoned for .....weeks with hard labour.

**THIS IS THEREFORE TO COMMAND YOU** the said members of the Police

Force to apprehend and convey the said prisoner to the Corrective Institution at ..... and deliver him to the Officer-In-Charge thereof together with this warrant; and to command you, the said Controller and the Officer-In-Charge to receive the said prisoner into your custody in the said Correction Institution and thereto imprison him and keep him to hard labour for the said term of imprisonment calculated from the date of his apprehension under this warrant.

DATED at.....this.....day of.....19.....

.....  
Magistrate.

**RECORD OF APPEAL/REVIEW**

1. Case Number Appealed Against.....  
 Name of Appellant .....  
 Name of Respondent.....  
 Village Court.....Local Authority.....

---

2. Names of Village Magis- 1..... 6.....  
 trates presiding at 2..... 7.....  
 Village Court Hearing. 3..... 8.....  
 4..... 9.....  
 5..... 10.....

---

3. DECISION OF VILLAGE COURT APPEALED AGAINST (Record Village Court Order here):

---

4. Section 52(2) GROUNDS OF APPEAL ALLEGED (Tick in appropriate square).

- (a) Court contravened an Act applied to it; or
  - (b) Court was not properly constituted; or
  - (c) Party not present other than provided for in the Act; or
  - (d) Court exceeded its jurisdiction; or
  - (e) Village Magistrate had a substantial interest; and
  - (f) THERE WAS A SUBSTANTIAL MISCARRIAGE OF JUSTICE.
- 

5. Section 51(1) (Two or more Village Magistrates to be appointed to sit with Magistrate hearing appeal or conducting review).

Village Magistrates Sitting with Magistrate  
 Hearing Appeal/Review. 1.....  
 2.....  
 3.....

---

---

6. Section 52(1) DECISION ON APPEAL/REVIEW (Tick in appropriate square).

The decision of the Village Court is hereby:

- (a) confirmed; or
- (b) quashed; or
- (c) referred back to the Village Court with a direction.

---

7. REASONS FOR DECISION.

MAGISTRATE HEARING APPEAL/CONDUCTING REVIEW.

Name.....

Magistrate Grade.....

Signature.....

Date.....

Place of Hearing.....

(Three copies to be sent to Provincial Supervising Magistrate who completes reverse).

*Village Courts Act 1989*

**VILLAGE COURT INSPECTION REPORT**  
(Form VCF 10 must be completed and attached to this form)

Section 1

Name of Village Court inspected.....

Name of L.G.C. or Community Government.....

Province.....District.....

Section 2.

Date of this Inspection.....Date of last Inspection.....  
No. of last Inspection Report.....

Section 3. List Names and Designation of Village Court Officials present at this Inspection:- (e.g. Tau Ako, Village Magistrate).

<u>NAME</u>	<u>DESIGNATION</u>	<u>NAME</u>	<u>DESIGNATION</u>
1.....	.....	7.....	.....
2.....	.....	8.....	.....
3.....	.....	9.....	.....
4.....	.....	10.....	.....
5.....	.....	11.....	.....
6.....	.....	12.....	.....

Section 4. Collect all used Village Court Order Books and forward to the Secretary, Village Courts Secretariat, Waigani. List First Serial No. of such Books below, (e.g. 3231).

(Form 1 or 2).....(Form 5 or 4).....(Form 5 or 6).....  
(Form 7 or 8).....(Receipt ).....(Unified Form).....

---

Section 5. State number of Appeals/Reviews heard since last Inspection and On this Inspection (e.g. 6).....

---

Section 6. List serial numbers of last Village Court Forms checked on this Inspection:

(Form 1 or 2).....(Form 5 or 4).....(Form 5 or 6).....  
(Form 7 or 8).....(Receipt ).....(Unified Form).....

---

Section 7. Has VCF 10 been completed and attached?.....(Yes or No)  
Were fine monies correct?.....(Yes or No)  
If "No", was Original VCF 10 handed to Police?.....(Yes or No)

---

Section 8. Together with this Inspection Report a General Narrative type Report must be submitted. This should include brief details concerning problems, complaints, and other general information of value or interest. Please attach..

---

Section 9. Note below which day(s) of the week and for how many hours this Village Court usually sits. (e.g. From 10 a.m to 3 p.m., Mondays and Thursdays).

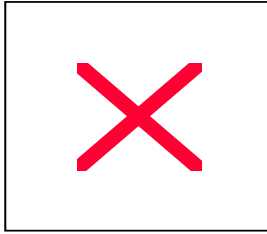
---

Section 10. Assess performance of Village Court since last Inspection:-  
Excellent/Very Good/Good/Fair/Poor/Very Poor (Delete as applicable).

---

Section 11. .....  
Signature of Inspecting Magistrate. Print Full Name. Date

.....  
Signature of Provincial Supervising Magistrate. Print Full Name. Date



**DEPARTMENT OF ATTORNEY-GENERAL**

Village Courts Secretariat

**VILLAGE COURT INSPECTION REPORT**

File Number :  
Name of Village Court :  
Name of Authority :  
District :  
Province :  
Date of Last Inspection :  
Name of Inspecting Officer :  
Date of this Inspection :  
Name of Inspecting Officer :

**Distribution of this Report:**

1. Secretary, Village Courts Secretariat, Waigani.  
(Via, PVCO).
2. Provincial Village Courts Officer
3. Provincial Supervising Magistrate
4. Village Court Inspector
5. Chairman of Village Court

**1. Notification and Timing of Inspection.**

- a. How was date of inspection notified to officials?
- b. Was the inspection made on the date notified to officials?
- c. If not, what is the reason?
- d. What day of the week was this inspection held?
- e. What day of the week does this court sit?

**2. Officials' Attendance.**

No. of officials in the Village Court:  
No. of officials present for Inspection:  
No. of officials absent from Inspection:

OFFICIALS PRESENT		OFFICIALS ABSENT	
Name	Designation	Name	Designation

3. No. of Orders Made Since Last Inspection On \_\_\_\_\_ (date)

FORM 1/2		FORM 3/4	FORM 5/6			FORM 7/8
Comp	Work		Com	Wor	Fine	Imprisonment

4. Order Forms Used.

Record below the serial number of the last order form checked on this Inspection:

FORM 1/2	FORM 3/4	FORM 5/6	FORM 7/8	UNIFIED

5. (a) Revocation of Officials Pursuant to this Inspection.

Name	Designation	Date of Appt.	Reason

. (b) Appointment of Officials Pursuant to this Inspection.

Name	Designation	Date of Recommendation for Appointment.

Note:- VCF forms in respect of above should be signed by Provincial Supervising Magistrate and sent to Waigani with this Report.

6. Procedure.

- a. Did Inspecting Officer witness full court hearing?  
YES/NO.
- b. Comment on procedure of full court.
- c. If answer to (a) is "NO", what is source of information for (b)?
- d. Describe any corrective measures taken or planned.

7. Mediation.

- a. Is mediation done in all disputes prior to full court hearing? YES/NO.
- b. What is source of information? (the most reliable information would probably to defendants. Court officials can be expected to make self-serving statements).
- c. When mediation is done, is it done properly? (This means that the parties themselves should be allowed and encouraged to reach agreements. Court officials should not adjudicate or be overbearing). Comment please.

8. Receipt and fine Money: (The Village Court Clerk is the only person who should handle or have access to receipt books and fine money).

- a. Does any person other than the Village Court Clerk have access to receipt books and fine money? YES/NO.
- b. If so, who?

- c. What steps were taken to stop other person having access?
  
- d. List serial numbers of receipt books held by Village Court for fines.
  
- e. List serial numbers of receipt books held by Village Court for compensation.
  
- f. Are receipts being issued to defendants immediately on payment of fine or compensation? YES/NO.
  
- g. Enter in the following Schedule details of all fine monies paid to the Village Court since the last inspection: (see Explanatory Notes on Reverse of this page).



9. Unenforced Orders.

(e) Schedule of Orders Unenforced.

This list includes all orders outstanding as at the date of inspection, not just those outstanding since the last inspection:-

FINES	ORDER NUMBER	DATE OF ORDER	AMOUNT ORDERED.	ORDERED COMP. DATE	DATE OF SUMMONS FOR FAILURE TO OBEY.	DATE OF HEARING FOR FAILURE TO OBEY ORDER.	DECISION HEARING FAILURE TO OBEY C
<p><b>This list does not include People who have been imprisoned for failure to pay fine.</b></p> <p><b>COMPENSATION</b></p>							
<p><b>This list does not include People who have been imprisoned for failure to pay compensation if they have not yet paid the compensation.</b></p> <p><b>WORK</b></p>							

- b. Action taken by inspecting Officer to assist Court to enforce its Orders.
  
- c. Other comments on Enforcement.
  - (i) Orders in Excess of Jurisdiction (Describe any example of Court or Officials exceeding jurisdiction and what action has been taken or is proposed to be taken).
  
  - (ii) Court House and Facilities.
  
  - (iii) General comments not included above.

Name of Inspecting Officer: \_\_\_\_\_

Signature of Inspecting Officer: \_\_\_\_\_

Date: \_\_\_\_\_

Attachment: (VCF. 9)

**STATEMENT OF FINES COLLECT  
BY A VILLAGE COURT**

(A copy of this form must be attached to VCF 9)

**F.**

**5403**

SECTION 1.

1. Name of Village Court.....
2. Name of Authority.....
3. Date of this Inspection....., 19.....
4. Number of last Village Court Receipt collected  
by Authority.....
5. Date Authority last collected Fine Monies and  
Receipts.....19.....
6. Village Court Receipts not yet collected Nos.....to.....
7. Total amount of cash as per Receipts at (6) above K.....
8. Cash on hand K.....
9. Name of collector of Public Monies.....
10. Appointment of collector notified *National Gazette* G.....

*Note:-* (a) (7) and (8) should be the same. If they are the same, do not Complete Section 2 and 3. Attach to VCF 9 and forward as usual.

(b) If (7) is less than (8), either you or the collector has made a mistake. Check again. Check especially if Receipts have been issued for all Fines paid. Do not complete Sections (2) and (3).

(c) If (8) is less than (7) it is possible that money has been stolen. Sections (2) and (3) of this Form should be completed.

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# VILLAGE COURTS MONTHLY RETURN

No. 12509

NAME OF VILLAGE COURT	NAME OF PROV. GOVT.	POPN.	NO. OF COMP. ORDER		NO. OF JOIN SITTING		NO. OF FINES		TOTAL AMOUNT FINES.		NO. OF COMM. WORK ORDERS		NO. OF SETTLEMENT ORDERS		NO. OF PREVENTIVE ORDERS ISSUED DONE
			ISSUED	PAID	ISSUED	PAID	ORDERED	PAID	ORDERED	PAID	ISSUED	PAID	ISSUED	PAID	

- DISTRIBUTION:**
- Original to Secretary, Village Courts
  - Duplicate to Provincial Government.
  - Triplicate to S.P.M
  - Quadruplicate (Book Copy) retained by Provincial Village Courts Officer.

Officer.

.....  
Provincial Village Courts

*Village Courts Act*

**CERTIFICATION OF APPOINTMENT**

**NAME** :  
**GAZETTE NO** :  
**APPOINTMENT DATE** :  
**VILLAGE COURT** :  
**PROVINCIAL/LOCAL GOVT.** :  
**PROVINCE** :

**SIGNATURE OF THE SECRETARY**

**SIGNATURE OF THUMBPRINT OFFICIAL**

**VILLAGE COURTS SECRETARY**

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

Sect. 75.

Form 11.

VILLAGE COURTS ACT

WARRANT OF EXECUTION

UPON AN ORDER FOR THE PAYMENT OF MONEY

To the Officer-In-Charge of Police at.....Police Station.  
To the Peace Officer of the .....Village Courts.

**WHEREAS** on the ..... day of.....19.....at  
..... upon the hearing of a complaint made by  
.....  
against.....  
Village Court.....at  
.....adjudged that the .....  
..... said .....  
.....the sum of K.....  
forthwith and also.....should  
pay to the said.....the sum  
of.....for costs; and  
**WHEREAS** the said.....has  
Made.....default in  
Payment.

**THERE ARE** therefore to command you forthwith to take the goods and chattels of the said.....except the wearing apparel and bedding of the defendant and his family, and the tools and implements of the defendant's trade, the whole not exceeding in value of the said of TWO HUNDRED KINA and if; within the space of 14 days after taking them the sum stated at the fact of this Warrant together with the reasonable costs and charges of taking and keeping the goods and chattels is not paid that then you sell the said goods and chattels and pay the money arising from such sale to the Village Court Clerk; and if no goods and chattels can be found, that you so certify to me.

Dated at.....day of.....19.....

.....

Magistrate

.....

Amount Adjudged	K.....
Paid	K.....
Remaining due	K.....
Costs of issuing this warrant	K.....
Amount to be levied	K.....

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

VILLAGE COURTS ACT 1989

FORM 12

SUMMONS

..... Informant or Complainant

..... Defendant

Date of Complaint .....

Nature of Complaint (State briefly).....

You.....

.....

.....

.....

.....

.....

These are therefore to command you to appear before the Village Court at .....

.....to answer the complaint, and to be further dealt with

according to law.

Place of Court .....

Date of Court.....

Time ..... am/pm.....

Village Court Magistrate.....

**PROOF OF SERVICE**

I, .....of.....

Did on.....19.....at.....

Serve the within named defendant with the within Summons by delivering a copy to him/her personally, and at the same time showing him/her the original Summons.

.....

Name

.....

Date

VILLAGE COURTS ACT.

WARRANT FOR ARREST

To..... (a) .....of.....  
(Name of Person) (address)

(b) Chairman of Village Court as .....

(c) All Chairman and Officials of the Village Court.

WHEREAS on information of .....

.....  
(Name)

.....  
(Address)

..... Date .....

..... stating that there are reasonable grounds for believing that .....

.....  
(name, address and occupation of person named in information).

- (a) has committed an offence in the Village Court area;  
and  
(b) that his arrest is necessary
- [ ] to ensure his appearance in court to answer a charge for the offence; or
- [ ] to prevent the continuation or repetition of the offence or the commission of a further offence; or
- [ ] to preserve the safety or welfare of a member of the public or of him.

in respect of .....

.....  
(here state nature of information)

.....  
YOU ARE THEREFORE ORDERED to arrest abovenamed.....

.....  
(here insert name of person)

and to bring him before the Court to answer to the said information and to be further dealt with according to law.

Dated at.....the.....day of

..... 19.....

.....  
Magistrate

**PAPUA NEW GUINEA**

**RECOMMENDATION FOR APPOINTMENT OF  
VILLAGE MAGISTRATES**

The following recommendations for appointment are made after consultation with Appropriate person and bodies by virtue of Section 7 of the Village Courts Act Chapter 44.

NAME OF PERSON	VILLAGE	VILLAGE COURT	COUNCIL AREA

Recommendation made by Secretary, Village Courts:-

Name:.....

Signature.....

OR

Date.....

Recommendation by:..... (Council)

Certified by: Designation.....

Name..... (President, Executive Officer etc.)

Date.....,

Distribution: Yellow - Headquarters  
 Blue - Provincial Headquarters  
 Pink - Inspectorate

**PAPUA NEW GUINEA**

**RECOMMENDATIONS FOR APPOINTMENT OF CHAIRMEN**

**AND DEPUTY CHAIRMEN**

The following recommendations for appointment are hereby made:

NAME OF VILLAGE MAGISTRATE APPOINTED CHAIRMEN	NAME OF VILLAGE MAGISTRATE APPOINTED DEPUTY CHAIRMEN	VILLAGE	VILLAGE COURT	COUNCIL AREA

RECOMMENDATION MADE BY: SECRETARY, VILLAGE COURTS: NAME:.....

SIGNATURE:.....

OR

DATE:.....

RECOMMENDATION BY: ..... (COUNCIL)

CERTIFIED BY: DESIGNATION:.....

NAME:..... (PRESIDENT, EXECUTIVE OFFICER ETC.)

DATE:.....

- DISTRIBUTION:
- YELLOW - HEADQUARTERS
  - Blue - Provincial Headquarters
  - Pink - Inspectorate

VCF 8

PAPUA NEW GUINEA

**RECOMMENDATIONS FOR REVOCATION OF APPOINTMENT**  
**OF CHAIRMEN & DEPUTY CHAIRMEN**

The following recommendations for revocation of appointment are hereby made.

NAME OF VILLAGE MAGISTRATE APPOINTED CHAIRMEN	NAME OF VILLAGE MAGISTRATE APPOINTED DEPUTY CHAIRMEN.	DATE OF APPOINTMENT AS CHAIRMEN OR DEPUTY CHAIRMEN.	GAZETTE NO. IF KNOWN.	VILLAGE	VILLAGE COURT	COUNCIL AREA.

Recommendations made by Secretary, Village Courts: Name.....

Signature.....

Date.....

OR

Recommendation by..... (Council)

Certified by: Designation.....

Name..... (President, Executive Officer etc.)

Distribution: Yellow - Headquarters  
Blue - Provincial Headquarters  
Pink - Inspectorate

**PAPUA NEW GUINEA**  
**REVOCATION OF APPOINTMENTS**  
**OF VILLAGE MAGISTRATES**

By virtue of Section 7 (1) of the Village Courts Act Chapter 44 I hereby revoke the appointment of the following Village Magistrates who have served a term of three years.

NAME OF VILLAGE MAGISTRATE	VILLAGE: DATE OF APPOINTMENT.	GAZETTE	VILLAGE COURT	COUNCIL AREA

**SECRETARY, VILLAGE COURTS:**      **Name:** .....

**Signature:**.....

**OR**    **Date:** .....

**Recommendation by:**..... **(Council)**

**Certified by:**      **Designation:**.....

**Name:**..... **(President, Executive Officer etc.)**

**Distribution:**      **Yellow - Headquarters**  
                             **Blue - Provincial Headquarters**  
                             **Pink - Inspectorate**

**PAPUA NEW GUINEA**

**RECOMMENDATIONS FOR REVOCATION  
OF APPOINTMENT OF VILLAGE MAGISTRATES**

The following recommendations for revocation of appointments is/are by virtue of Section 7 (2) of the Village Courts Act Chapter 44:-

NAME OF VILLAGE MAGISTRATE.	VILLAGE	VILLAGE COURT	VILLAGE AREA	DATE OF APPT. IF KNOWN.	REASONS FOR RECOMMENDING REVOCATION (INCAPACITY OF MISCONDUCT).

RECOMMENDATIONS MADE BY SECRETARY, VILLAGE COURTS: NAME:.....

SIGNATURE:.....

OR

DATE:.....

RECOMMENDATION BY:..... (COUNCIL)

CERTIFIED: DESIGNATION:.....

NAME:..... (PRESIDENT, EXECUTIVE OFFICER ETC.)

DATE:.....

DISTRIBUTION: YELLOW - HEADQUARTERS  
 BLUE - PROVINCIAL HEADQUARTERS  
 PINK - INSPECTORATE

**PAPUA NEW GUINEA**

**REVOCATIONS AND APPOINTMENTS OF  
VILLAGE PEACE OFFICERS.**

I hereby revoke the appointments of the following Village Court Peace Officers, by virtue of Section 63 (1) of the Village Courts Act Chapter 44.

NAME OF PEACE OFFICER	VILLAGE	DATE OF APPOINTMENT.	VILLAGE COURT	COUNCIL AREA

I hereby appoint the following to be Village Court Peace Officers, by virtue of Section 62 (1) of the Village Courts Act Chapter 44.

NAME OF PEACE OFFICER.	VILLAGE	VILLAGE COURT	COUNCIL AREA

**PROVINCIAL ADMINISTRATOR:**      Name:.....

Signature:.....

Date:.....

**Distribution:**    Yellow -      Headquarters  
                           Blue -      Prov. H/Q  
                           Pink -      Inspectorate

**PAPUA NEW GUINEA**

**REVOCATIONS AND APPOINTMENTS OF  
VILLAGE COURT CLERKS**

I hereby revoke the appointment of the following Village Court Clerks, by virtue of Section 12 (1) of the Village Courts Act Chapter 44:

NAME OF CLERK: VILLAGE.	DATE APPOINTMENT	OF VILLAGE COURT	COUNCIL AREA

I hereby appoint the following to be Village Court Clerks, by virtue of Section 12 (1) of the Village Courts Act Chapter 44:

NAME OF CLERK	VILLAGE	VILLAGE COURT	SPONSOR

PROVINCIAL ADMINISTRATOR: NAME:.....

SIGNATURE:.....

DATE:.....

- |                      |   |                         |
|----------------------|---|-------------------------|
| DISTRIBUTION: YELLOW | - | HEADQUARTERS            |
| BLUE                 | - | PROVINCIAL HEADQUARTERS |
| PINK                 | - | INSPECTORATE            |

