



MONTSERRAT

CHAPTER 4.10

FORFEITED RECOGNIZANCES ACT

Revised Edition
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

FORFEITED RECOGNIZANCES ACT

Act 4 of 1877 .. in force 7 December 1877

Amended by S.R.O. 15/1956

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ARRANGEMENT OF SECTIONS

SECTION

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SCHEDULE

CHAPTER 4.10

FORFEITED RECOGNIZANCES ACT

(Act 4 of 1877 and S.R.O. 15/1956)

Commencement

[7 December 1877]

Short title

1. This Act may be cited as the Forfeited Recognizances Act.

Registrar to make list of forfeited recognizances

2. The Registrar of the High Court shall, before the close of the last day's sitting of the Court, make out a list of all persons bound by recognizance to appear, or who shall have been bound for the appearance of any other person at the said Court, and who shall have made default, or whose principal, or other person for whom they are so bound, shall have made default to appear at the said Court, and of all persons whose recognizances shall have been certified as forfeited by or before any Magistrate or other proper officer.

List to be signed by Judge, and defaulters to be summoned to appear before Court

3. The list so made out shall be signed by the presiding Judge and delivered to the Bailiff, who shall forthwith summon all persons whose names appear on such list to appear before the said Court, on a day to be named in the summons, to show cause why the penalty of the recognizances should not be enforced.

Court to hear and determine the merits of each case

4. The Bailiff shall forthwith make a return thereto of all persons who have been summoned as aforesaid, and the said Court shall proceed to hear and determine the merits of each case; and the said Court shall have power, wholly or in part, to remit the amount in which the party may stand bound, or to enforce the same in manner hereinafter directed.

If person summoned makes default, case may be determined in his absence

5. In case any person summoned, as aforesaid, to appear before the said Court refuses or neglects so to do, the said Court may, upon proof of the service of summons being made, proceed to hear and determine the merits of the case, and to give judgment therein as if such person were present.

Execution to be issued against defaulter for seizure of goods, etc., or for arrest

6. When judgment shall have been given against any person in respect of any forfeited recognizances, a writ of execution, in the form in the Schedule shall be issued from the Registrar's office against such person, and delivered to the Bailiff, which shall be the authority of such Bailiff for levying and recovering such forfeited recognizances, and for taking into custody the body of such person in case sufficient goods and chattels, lands and tenements shall not be found whereon levy may be made.

Persons arrested to be imprisoned, or give bail for appearance at next sitting of Court

7. Every person who shall be arrested under the provisions of the last preceding section shall be lodged in prison until the next sitting of the said Court, there to abide the judgment of the said Court: Provided always that if any person so arrested and imprisoned shall give to the Bailiff good and sufficient bail for his appearance at the next sitting of the said Court to abide the decision of the said Court, and for the payment of such forfeited recognizances, or sum of money in lieu or satisfaction thereof, together with such costs as shall be awarded by the Court, then, and in such case, it shall be lawful for the said Bailiff, and he is hereby required, forthwith to discharge such person out of custody.

If person fails to appear, Court may order execution to issue against sureties

8. If such person shall fail to appear at the next sitting of the said Court in pursuance of his undertaking in that respect, it shall be lawful for the Court to order that a writ of execution, in the form in the Schedule with such alterations as may be necessary to suit the facts, be issued from the Registrar's office against the surety or sureties of the person so bound as aforesaid, and such writ shall be delivered to the Bailiff, who shall proceed as therein directed: Provided that the Court may, if in its discretion it thinks proper, order the discharge of the whole, or any part, of the forfeited recognizances, or of the sum of money paid, or to be paid, in lieu thereof.

SCHEDULE

(Sections 6 and 8)

IN THE EASTERN CARIBBEAN SUPREME COURT

Montserrat Circuit

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

To the Bailiff of the Circuit.

We command you that of the goods and chattels, lands and tenements and debts of A.B., of, you cause to be levied the sum of, which said sum of money the said A.B. was by a judgment of our said High Court, bearing date the day of, adjudged to pay in respect of a certain recognizance forfeited by him; and, in case you cannot find sufficient goods and chattels, lands and tenements and debts of the said A.B., then you are to take the body of the said A.B., and lodge him in the prison at, there to await the decision of the presiding Judge of the said Court next thereafter to be held in this Circuit, unless the said A.B., shall give sufficient security for his appearance at the said Court, for which you will be answerable, and have you then and there this writ.

Witness The Honourable (*Judge*), of our High Court
the day of, 20.....

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