

M O N T S E R R A T

**MAGISTRATE’S COURT (AMENDMENT) BILL 2025**

No. 14 of 2025

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**I ASSENT**

**Governor**

DATE:

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**A BILL FOR**

AN ACT TO AMEND THE MAGISTRATE'S COURT ACT (CAP. 2.02).

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the Authority of the same as follows:—

**1. Short title**

This Act may be cited as the Magistrate's Court (Amendment) Act, 2025.

**2. Interpretation**

In this Act "**principal Act**" means Magistrate's Court Act (Cap. 2.02).

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**3. Section 2 amended**

Section 2 of the principal Act is amended by inserting the following definitions in the correct alphabetical sequence—

“**possession claim**” means a claim for the recovery of possession of land (including buildings or parts of buildings);

“**possession claim against a trespasser**” means a claim for the recovery of land which the claimant alleges is occupied only by a person or persons who entered or remained on the land without the consent of a person entitled to possession of that land but does not include a claim against a tenant or sub-tenant whether his tenancy has been terminated or not;”.

**4. Section 22 amended**

Section 22 of the principal Act is amended—

(a) in paragraph (c), by deleting “illegitimate” and substituting “children born outside of marriage”;

(b) in paragraph (e), by deleting “\$10,000” and substituting “\$20,000”; and

(c) by inserting the following as paragraph (ea)—

“(ea) to make an order for the recovery of possession of land (including buildings or parts of buildings, no matter the value of buildings or parts of buildings) against a tenant in occupation or a tenant holding over or a trespasser;”.

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**5. Section 27 amended**

Section 27 of the principal Act is amended by deleting “\$10,000” and substituting “\$20,000”.

**6. Section 53 amended**

Section 53 of the principal Act is amended by deleting “\$200” and substituting “\$500”.

**7. Section 55 amended**

The principal Act is amended by deleting section 55 and substituting the following—

**“55. Duration of order on the person alleged to be the father**

An order for the maintenance and education of a child made under this Act shall, except for the purpose of recovering money previously owed, be of no effect—

- (a) if the child in respect of whom the order was made attains the age of eighteen years;
- (b) if the child in respect of whom the order was made enters into full time employment;
- (c) if the results of parentage testing show that the person alleged to be the father is not the biological father of the child in respect of whom the order was made; or
- (d) if the child in respect of whom the order was made has died.”.

**8. Section 63 amended**

Section 63(1) of the principal Act is amended by deleting “\$10,000” and substituting “\$20,000”.

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**9. Section 64 amended**

Section 64(1) of the principal Act is amended by deleting “\$2,000” and substituting “\$20,000”.

**10. Section 64A inserted**

The principal Act is amended by inserting the following as section 64A—

**“64A. Possession claim**

Despite section 63 and 64, the Court shall have jurisdiction to hear and determine a possession claim or a possession claim against a trespasser and may make an order pursuant to section 22 (*ea*).”.

**11. Section 75 amended**

Section 75 of the principal Act is amended by deleting “\$10,000” wherever it appears and substituting “\$20,000”.

**12. Replacement of “putative father”**

The principal Act is amended by deleting “putative father” wherever it appears and substituting “the person alleged to be the father”.

**13. Replacement of “illegitimate child”**

The principal Act is amended by deleting “illegitimate child” wherever it appears and substituting “child born outside of marriage”.

**14. Replacement of “Juveniles Act” and “Juvenile Court”**

The principal Act is amended by deleting –

- (a) “Juveniles Act” wherever it appears and substituting “Child Justice Act”; and
- (b) “Juvenile Court” wherever it appears and substituting “Court”.

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**15. Amendment of Schedule 1**

Schedule 1 of the principal Act is amended by inserting the following after “Levy fee — 5% on net proceeds of sale.....”—

**“BARRISTERS AND SOLICITORS FEES**

**Claims:**

- |    |   |         |
|----|---|---------|
| 1. | If the claim does not exceed \$2,500 the Magistrate may award fees of not less than.....                    | \$500   |
| 2. | If the claim exceeds \$2,500 but does not exceed \$5,000 the Magistrate may award fees not exceeding.....   | \$1,000 |
| 3. | If the claim exceeds \$5,000 but does not exceed \$7,500 the Magistrate may award fees not exceeding .....  | \$1,250 |
| 4. | If the claim exceeds \$7,500 but does not exceed \$10,000 the Magistrate may award fees not exceeding ..... | \$2,000 |
| 5. | If the claim exceeds \$10,000 the Magistrate may award fees not exceeding .....                             | \$2,500 |

**Judgment Debtor Summons and Defaulting Debtor Summons:**

- |    |   |       |
|----|---|-------|
| 1. | Where the amount of the judgement debt does not exceed \$5,000 the Magistrate may award fees not exceeding... | \$250 |
| 2. | Where the amount of the judgement debt exceeds \$5,000 the Magistrate may award fees not exceeding.....       | \$300 |

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3. Where the amount of the judgement debt exceeds \$10,000 the Magistrate may award fees not exceeding..... \$500

#### **Maintenance**

Where the application is for maintenance of a spouse or child the Magistrate may award fees of not less than..... \$500

#### **Order of Commitment**

Where the matter relates to an order of commitment the Magistrate may award fees not exceeding..... \$500"

#### **16. Magistrate's Court Rules amended**

The Magistrate's Court Rules are amended as set out in the Schedule.

#### **17. Repeal of Court of Summary Jurisdiction (Fees) Order**

The Court of Summary Jurisdiction (Fees) Order (SRO 6/1975) is repealed.

## **SCHEDULE**

### **AMENDMENTS TO THE MAGISTRATE'S COURT RULES**

#### **1. Replacement of "putative father"**

The phrase "putative father" is deleted wherever it appears and substituted with "the person alleged to be the father".

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**2. Replacement of “bastardy”**

The word “bastardy” is deleted wherever it appears and substituted with “maintenance in relation to a child born outside of marriage”.

**3. Replacement of “bastardy arrears”**

The phrase “bastardy arrears” is deleted wherever it appears and substituted with “maintenance arrears”.

**4. Rule 33 amended**

The heading of rule 33 is deleted and substituted with “Certificate of imprisonment”.

**5. Schedule to the Rules amended**

The Schedule to the Rules is amended by deleting the heading of Form 47 and substituting “SUMMONS IN RELATION TO MAINTENANCE OF A CHILD BORN OUTSIDE OF MARRIAGE”.

**SPEAKER**

Passed the Legislative Assembly this      day of      , 2025.

**CLERK OF THE LEGISLATIVE ASSEMBLY**