Practice Direction No. 5 of 1987

SECOND CLASS MAGISTRATES' COURTS

IN SABAH AND SARAWAK

1. Pursuant to the Subordinate Courts (Amendment) Act,1987, the Hon'ble the Chief Justice hereby directs the following changes to take effect from 1 September, 1987:-

2. Second Class Magistrates' Courts

2.1. Second Class Magistrates' Courts are hereby constituted at all places where there are Magistrates' Courts. (See PU(B) 261/81)

2.2. First Class Magistrates shall hear all cases within the jurisdiction of Second Class Magistrates' Courts.

3. Criminal Jurisdiction

3.1. A Second Class Magistrate shall only have jurisdiction to try offences for which the maximum term of imprisonment provided by law does not exceed twelve months' imprisonment or which are punishable with fine only. Provided that if a Second Class Magistrate is of the opinion that in the circumstances of the case, if a conviction should result, the powers of punishment which he possesses would be inadequate, he shall take the necessary steps to adjourn the case for trial by a First Class Magistrate.

3.2. A Second Class Magistrate may pass any sentence allowed by law -

(a) not exceeding six months imprisonment;

(b) a fine of not more than one thousand ringgit; or

(c) any sentence combining either of the sentence aforesaid.

3.3. The types of criminal cases triable by a Second Class Magistrate are set out in Appendix A.

3.4. In addition a Second Class Magistrate may -

(a) Order the detention of any person under section 117 of the Criminal Procedure Code.

(b) Extend the remand of any person awaiting trial under section 259 C.P.C.

...2/-

3.4. (c) Disposal of property seized by police under section 413 C.P.C.

4. Civil Jurisdiction

4.1. A Second Class Magistrate shall only have jurisdiction to try original actions or suits of a civil nature where the Plaintiff seeks to recover a debt or liquidated demand in money payable by the defendant, with or without interest, not exceeding three thousand ringgit.

4.2. The types of civil cases triable by a Second Class Magistrate are set out in Appendix B.

4.3. The procedure to be followed in civil cases is set out in Order 54 of the Subordinate Courts Rules.

5. Registers

5.1. Separate Registers shall be maintained for all cases triable in Second Class Magistrates' Courts.

5.2. For criminal cases -

(a) With effect from 1.9.1987, New Registers shall be opened for Second Class Magistrates' Courts cases.

(b) Cases registered in the Magistrates' Court before 1.9.1987 but now triable by a Second Class Magistrate, shall be heard by the First Class Magistrate without any formal transfers. It is sufficient for the cases to be sorted out at least 48 hours before the mention or hearing date and sent to the Second Class Magistrate.

(c) Cases which were registered in the First Class Magistrates' Court before 1.9.1987 and partly heard should be continued and heard by the same officers who heard them until they are concluded. Part-heard case means cases where the trial has begun in that witnesses have given evidence.

5.3. For civil cases -

(a) A new register shall be kept for all cases filed as from 1.9.1987.

...3/-

5.3. (b) Civil cases registered in the First Class Magistrates' Court prior to 1.9.1987 although below $3,000/- shall remain in that Court and continue to be heard and disposed of by a First Class Magistrate.

6. Monthly Returns

6.1. Separate Monthly Returns shall be prepared in respect of all cases within the jurisdiction of Second Class Magistrates' Courts, whether or not there are Second Class Magistrates' Courts.

6.2. Such returns shall show -

(a) The number of new cases registered since 1.9.1987; the number of such cases disposed of during the month; and the number of such cases pending at the end of each month.

(b) The number of criminal cases 'transferred' from the First Class Magistrates' Court during the month; the number of such cases disposed of during the month; and the number of such cases pending at the end of each month.

( AGNES WONG KIEW LING )
Registrar,
High Court Borneo

c.c.

1. Hon'ble Lord President, Supreme Court Malaysia
2. Hon'ble The Chief Justice Malaya
3. Hon'ble The Chief Justice Borneo.
4. Hon'ble Attorney General, Malaysia.
5. All Hon'ble Judges of the High Court in Borneo
6. Hon'ble Attorney General, Sabah
7. Hon'ble Attorney General, Sarawak
8. The State Secretary, Sabah.
9. The State Secretary, Sarawak
10. The Chief Registrar, Supreme Court, Kuala Lumpur.
11. The Registrar, High Court Malaya.
12. All Sessions Court Judges, East Malaysia.
13. All Magistrates, Magistrates Court East Malaysia.
14. Senior Federal Counsel, Sabah.
15. Senior Federal Counsel, Sarawak.
16. All Practising Advocates, Sabah & Sarawak.
17. Commissioner of Police, Sarawak.
18. Commissioner of Police, Sabah.
19. Managing Editor of Malayan Law Journal
20. Managing Editor of Current Law Journal

Appendix A

## Criminal Cases Triable By Second Class Magistrate

Nowithstanding section 88 of the Subordinate Courts Act, 1948 (and until further direction) Second Class Magistrates shall only try offences under the following Acts -

1. Gambling Ordinances - Cap.138(Sarawak).
2. Gaming Ordinance - Cap.50(Sabah).
3. Income Tax Act 1967 (Revised 1977).
4. Local Authority Ordinances - Cap.117(Sarawak) (Bye-laws, Rules and Regulations thereunder) But excluding offences of unauthorised building or extensions.
5. Local Government Ordinance 1961 (Sabah).
6. Public Health Ordinance, 1962.
7. Public Health Ordinance No. 7 of 1960 (Sabah)
8. Penal Code - Sections 323 and 352 only.
9. Prevention of Cruelty to Animals Ordinance Cap.140 (Sarawak)/Cap.31 (Sabah).
10. Public Health Ordinance, No. 24 of 1962 (Sarawak)/ No. 7 of 1960 (Sabah).
11. Business Names Ordinance - Cap. 64.
12. Business, Professions and Trades Licensing Ordinance - Cap. 33 (Sarawak).
13. Trades Licensing Ordinance - Cap.144 (Sabah).
14. Minor Offences Ordinance - Cap.56 (Sarawak)/ Cap. 80 (Sabah).
15. Road Traffic Ordinance, 1958 (Bye-laws, Rules and Regulations thereunder) excluding sections 34A, 35, 36, 37, 74 and 92.
16. Telecommunications Act, 1950.
17. Weights and Measures Act 1972.
18. Railways Ordinance - Cap. 116 (Sabah).
19. Animals Ordinance, 1962 (Ord. 16/62) (Sabah).
20. Dogs Ordinance, 1960 (Ord.24/60) (Sabah).

Appendix B

## Civil Cases Triable By Second Class Magistrate

A claim may be made in the Second Class Magistrates' Court to recover a debt or liquidated demand in money, examples of which are set out below:-

1. Claim for money paid for defective goods.
2. Claim for payment of goods sold and delivered.
3. Claim for return of money paid for work not carried out.
4. Claim for repayment of money lent.
5. Claim for refund of money.
6. Claim for liquidated demand in damages.
7. Claim for commission due.
8. Claim for money owed to Bank or any other Institution authorised to lend, e.g. Cooperatives.
9. Claim against drawer of cheque.
10. Claim for debt or liquidated demand by the Federal Government, any State Government or any Statutory Body.
11. Claim for services rendered.
12. Claim for charges for facilities provided.
13. Claim for use of credit facilities.
14. Claim for cost of repairs.
15. Claim for maintenance charges.
16. Claim for cost of hiring.