

No. S 71

**THE SUPREME COURT OF JUDICATURE ACT.
(CHAPTER 322).**

THE RULES OF COURT 1996.

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THE SUPREME COURT OF JUDICATURE ACT.
(CHAPTER 322).

THE RULES OF COURT 1996.

In exercise of the powers conferred on us by section 80 of the Supreme Court of Judicature Act and all other powers enabling us under any other written law, we, the Rules Committee, hereby make the following Rules:

ORDER 1

CITATION, APPLICATION, DEFINITIONS AND FORMS

Citation and commencement (O. 1, r. 1).

1. These Rules may be cited as the Rules of Court 1996 and shall come into operation on 1st April 1996.

Repeal, Transitional Provisions and Application (O. 1, r. 2).

2.—(1) Subject to the following provisions of this Rule, the Rules of the Subordinate Courts [1993 Ed] and Rules of the Supreme Court [1990 Ed] are hereby repealed.

(2) The transitional provisions and savings set out in the Schedule to this Order shall have effect.

(3) Subject to this Rule, these Rules shall have effect in relation to all proceedings in the Supreme Court and Subordinate Courts, in so far as the matters to which these Rules relate are within the jurisdiction of those Courts and, unless the Court otherwise orders, apply to any pending proceedings therein.

(4) These Rules shall not have effect in relation to proceedings of the kinds specified in the first column of the following Table (being proceedings in respect of which rules may be made under the written law specified in the second column of that Table):

TABLE

<i>Proceedings</i>	<i>Written Law</i>
1. Bankruptcy proceedings.	Bankruptcy Act 1995 (Act 15 of 1995), s.166.
2. Proceedings relating to the winding up of companies.	Companies Act (Chapter 50), s.410.
3. Proceedings under Part IV of the Parliamentary Elections Act (Chapter 218).	Parliamentary Elections Act, s.100.
4. Proceedings under Part I of the Mental Disorders and Treatment Act (Chapter 178).	Mental Disorders and Treatment Act, s.62.

*Proceedings**Written Law*

5. Proceedings under Part IX of the Women's Charter (Chapter 353) (except appeals to the Court of Appeal)

Women's Charter, s.139.

6. Criminal Proceedings.

Criminal Procedure Code (Chapter 68).

(5) In the case of the proceedings mentioned in paragraph (4), nothing in that paragraph shall be taken as affecting any provision of any rules (whether made under the Act or any other written law) by virtue of which these Rules or any provisions thereof are applied in relation to any of those proceedings.

Application of Interpretation Act (O. 1, r. 3).

3. The Interpretation Act (Chapter 1) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

Definitions (O. 1, r. 4).

4.—(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, namely:

“bailiff” includes the registrar, any clerk or other officer of the Court charged with the duties of a bailiff in the Subordinate Courts;

“cause book” means the book kept in the Registry in which the number of, and other details relating to, a cause or matter are entered;

“folio” means 100 words, each figure being counted as one word;

“Form” means a form set out in Appendix A to these Rules, and a form so numbered in the Appendix;

“Judge” means a judge of the High Court or District Judge and includes, in cases where he is empowered to act, a Magistrate or the registrar, as the case may require;

“officer” means an officer of the Supreme Court or Subordinate Courts;

“originating summons” means every summons other than a summons in a pending cause or matter;

“pleading” does not include a petition, summons or preliminary act;

“receiver” includes a manager or consignee;

“Registry” means the Registry of the Supreme Court or the Registry of the Subordinate Courts, as the case may be, and references to the Registrar shall be construed accordingly;

“scheduled territories” has the meaning assigned to it by the Exchange Control Act (Chapter 99);

“Sheriff” includes a bailiff of the Subordinate Courts.

“sign”, in relation to the signing of documents by the Registrar, includes the affixing of a facsimile signature;

“solicitor” has the same meaning as in the Legal Profession Act (Chapter 161);

“writ” means a writ of summons.

(2) In these Rules, unless the context otherwise requires, “Court” means the High Court or any one or more Judges thereof or a District Court or District Judge, whether sitting in Court or in Chambers, and includes, in cases where he is empowered to act, a Magistrate or the Registrar; but the foregoing provision shall not be taken as affecting any provision of these Rules and, in particular, Order 32, Rule 9, by virtue of which the authority and jurisdiction of the Registrar is defined and regulated.

Construction of references to Orders, Rules, etc. (O. 1, r. 5).

5.—(1) Unless the context otherwise requires, any reference in these Rules to a specified Order, Rule or Appendix is a reference to that Order or Rule of, or that Appendix to these Rules and any reference to a specified Rule, paragraph or sub-paragraph is a reference to that Rule of the Order, that paragraph of the Rule, or that sub-paragraph of the paragraph, in which the reference occurs.

(2) Any reference in these Rules to anything done under a Rule of these Rules includes a reference to the same thing done before the commencement of that Rule under any corresponding Rule of Court ceasing to have effect on the commencement of that Rule.

(3) Except where the context otherwise requires, references in these Rules to any written law shall be construed as a reference to that written law as amended, extended or applied by or under any other written law.

Construction of references to action, etc., for possession of immovable property (O. 1, r. 6).

6. Except where the context otherwise requires, references in these Rules to an action or claim for the possession of immovable property shall be construed as including references to proceedings against the Government for an order declaring that the plaintiff is entitled as against the Government to the immovable property or to the possession thereof.

Forms (O. 1, r. 7).

7. The Forms in Appendix A to these Rules shall be used where applicable with such variations as the circumstances of the particular case require.

SCHEDULE
TRANSITIONAL PROVISIONS AND SAVINGS

Order 1, Rule 2 (2)

PART I
PROVISIONS RELATING TO PROCEEDINGS
IN THE SUPREME COURT

1. The following provisions of the Rules of the Supreme Court, 1970 shall continue to apply to any proceeding commenced before 1st August 1991:

- (a) ORDER 14;
- (b) ORDER 41, RULE 5;
- (c) ORDER 73, RULE 5 (1) and (2);
- (d) ORDER 81;
- (e) APPENDIX A, FORM 18; and
- (f) APPENDIX A, FORM 46 (paragraphs 22 to 29), and

Order 25, Rule 8 of these Rules shall not apply to any proceeding commenced before 1st August 1991.

2. The following provisions of the Rules of the Supreme Court, 1970 shall continue to apply to any costs to which a party or person became entitled before 1st February 1992:

ORDER 59.

3. Order 90A, Form 63A and Form 118A of these Rules shall not apply to —

- (a) any cause or matter for hearing before the High Court in open Court in which the request for setting down, the application or the record of appeal, as the case may be, was filed on or before 1st July 1993.
- (b) appeals and applications before the Court of Appeal in which the record of appeal or the application was filed before 1st July 1993.

4. The following provision of the Rules of the Supreme Court, 1970 which was inserted by Rule 28 of the Rules of the Supreme Court (Amendment No. 2) Rules 1991 (S 281/91), as amended by Rule 11 of the Rules of the Supreme Court (Amendment) Rules 1991 (S 515/92), shall continue to apply to any appeal filed before 2nd May 1994 but on or after 2nd January 1993:

ORDER 57, RULE 9A.

5. Order 57, Rule 9A of these Rules shall not apply to any appeal to the Court of Appeal in respect of which the Registrar's notice referred to in Order 57, Rule 5 (2) of these Rules has been served before 2nd May 1994.

SCHEDULE — *continued*

6. The following provisions of the Rules of the Supreme Court, 1970, as amended by the Rules of the Supreme Court (Amendment No. 2) Rules 1991 (S 281/91), shall continue to apply to any appeal to the Court of Appeal in respect of which the Registrar's notice referred to in Order 57, Rule 5 (2) of these Rules has been served before 2nd May 1994 but in which the appeal was filed on or after 1st August 1991:

ORDER 57, RULES 6, 7, 8, 9, 10 (2), 12, 13 (4) and 14 (4).

7. The following provisions of the Rules of the Supreme Court, 1970 shall continue to apply to any appeal, application for leave or application for special leave to appeal made under the revoked Judicial Committee Act (Chapter 148) before 8th April 1994:

ORDER 58.

8. The following provision of the Rules of the Supreme Court, 1970 shall continue to apply to any writ of summons issued before these Rules come into operation:

ORDER 6, RULE 4 (1) and (2).

PART II

PROVISIONS RELATING TO PROCEEDINGS
IN THE SUBORDINATE COURTS

1. The following provisions of the Rules of the Subordinate Courts 1986 shall continue to apply to any proceedings commenced before 1st March 1992:

- (a) ORDER 14;
- (b) ORDER 41, RULE 5 (1);
- (c) ORDER 65, RULE 5 (2); and
- (d) SCHEDULE A, FORM 15.

2. The following provisions of the Rules of the Subordinate Courts 1986 shall continue to apply to any appeal filed before 1st March 1992:

- (a) ORDER 54, RULE 1 (2);
- (b) ORDER 54, RULE 3;
- (c) ORDER 54, RULE 4 (1); and
- (d) ORDER 54, RULE 7 (3).

SCHEDULE — *continued*

3. The following provisions of the Rules of the Subordinate Courts 1986 shall continue to apply to any costs to which a party became entitled before 1st April 1992:

- (a) ORDER 56; and
- (b) ORDER 57.

4. The following provision of the Rules of the Subordinate Courts 1986 which was inserted by Rule 3 of the Rules of the Subordinate Courts (Amendment No. 3) Rules 1992 (S 283/92), shall continue to apply and have effect in respect of actions where the summons for directions has been heard and dealt with before 1st October 1992 and in the case of automatic directions where the directions have taken effect before that date:

SCHEDULE B, ITEM 18C.

5. The following provision of the Rules of the Subordinate Courts 1986 which was inserted by Rule 3 of the Subordinate Courts (Amendment No. 2) Rules 1992 (S 113/92) shall continue to apply to any writ issued before 1st July 1994 but on or after 1st April 1992:

ORDER 6, RULE 4.

6. The following provisions of the Rules of the Subordinate Courts 1986 which were inserted by the Rules of the Subordinate Courts (Amendment No. 3) Rules 1992 (S 283/92), shall continue to apply to any cause or matter for hearing before the Subordinate Courts in open court in which the request for setting down or the application, as the case may be, has been filed before 1st July 1994 but on or after 1st July 1992:

SCHEDULE B, ITEM 18B; and
SCHEDULE B, ITEM 18C.

7. The following provision of the Rules of the Subordinate Courts 1986 which was inserted by the Rules of the Subordinate Courts (Amendment No. 3) Rules 1992 (S 283/92), and the Rules of the Subordinate Courts (Amendment No. 4) Rules 1992 (S 424/92), shall continue to apply to any cause or matter for hearing before the Subordinate Courts in open court in which the request for setting down or the application, as the case may be, has been filed before 1st July 1994 but on or after 1st October 1992:

SCHEDULE B, ITEM 18C.

SCHEDULE — *continued*

8. Order 90A, Form 63A of these Rules shall not apply to any cause or matter for hearing in the Subordinate Courts in open court in which the request for setting down or the application, as the case may be, was filed before 1st July 1994.

ORDER 2

EFFECT OF NON-COMPLIANCE

Non-compliance with Rules (O. 2, r. 1).

1.—(1) Where, in beginning or purporting to begin any proceedings or at any stage in the course of or in connection with any proceedings, there has, by reason of anything done or left undone, been a failure to comply with the requirements of these Rules, whether in respect of time, place, manner, form or content or in any other respect, the failure shall be treated as an irregularity and shall not nullify the proceedings, any step taken in the proceedings, or any document, judgment or order therein.

(2) Subject to paragraph (3), the Court may, on the ground that there has been such a failure as is mentioned in paragraph (1), and on such terms as to costs or otherwise as it thinks just, set aside either wholly or in part the proceedings in which the failure occurred, any step taken in those proceedings or any document, judgment or order therein or exercise its powers under these Rules to allow such amendments (if any) to be made and to make such order (if any) dealing with the proceedings generally as it thinks fit.

(3) The Court shall not wholly set aside any proceedings or the writ or other originating process by which they were begun on the ground that the proceedings were required by any of these Rules to be begun by an originating process other than the one employed.

Application to set aside for irregularity (O. 2, r. 2).

2.—(1) An application to set aside for irregularity any proceedings, any step taken in any proceedings or any document, judgment or order therein shall not be allowed unless it is made within a reasonable time and before the party applying has taken any fresh step after becoming aware of the irregularity.

(2) An application under this Rule may be made by summons and the grounds of objection must be stated in the summons.

ORDER 3**TIME****“Month” means calendar month (O. 3, r. 1).**

1. Without prejudice to the Interpretation Act (Chapter 1), in its application to these Rules, the word “month”, where it occurs in any judgment, order, direction or other document forming part of any proceedings in Court, means a calendar month unless the context otherwise requires.

Reckoning periods of time (O. 3, r. 2).

2.—(1) Any period of time fixed by these Rules or by any judgment, order or direction for doing any act shall be reckoned in accordance with this Rule.

(2) Where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.

(3) Where the act is required to be done within or not less than a specified period before a specified date, the period ends immediately before that date.

(4) Where the act is required to be done a specified number of clear days before or after a specified date, at least that number of days must intervene between the day on which the act is done and that date.

(5) Where, apart from this paragraph, the period in question, being a period of 7 days or less, would include a Saturday, Sunday or public holiday, that day shall be excluded.

Time expires on Sunday, etc. (O. 3, r. 3).

3. Where the time prescribed by these Rules, or by any judgment, order or direction, for doing any act at the Registry expires on a Sunday or other day on which the Registry is closed, and by reason thereof that act cannot be done on that day, the act shall be in time if done on the next day on which the Registry is open.

Extension, etc., of time (O. 3, r. 4).

4.—(1) The Court may, on such terms as it thinks just, by order extend or abridge the period within which a person is required or authorised by these Rules or by any judgment, order or direction, to do any act in any proceedings.

(2) The Court may extend any such period as is referred to in paragraph (1) although the application for extension is not made until after the expiration of that period.

(3) The period within which a person is required by these Rules, or by any order or directions, to serve, file or amend any pleading or other document may be extended by consent (given in writing) without an order of the Court being made for that purpose.

(4) In this Rule, references to the Court shall be construed as including references to the Court of Appeal.

(5) Paragraph 3 of this Rule shall not apply to the period within which any action or matter is required to be set down for trial or hearing or within which any notice of appeal is required to be filed.

Notice of intention to proceed after year's delay (O. 3, r. 5).

5. Where a year or more has elapsed since the last proceeding in a cause or matter, the party who desires to proceed must give to every other party not less than one month's notice of his intention to proceed.

A summons on which no order was made is not a proceeding for the purpose of this Rule.

ORDER 4

CONSOLIDATION OF PROCEEDINGS

Consolidation, etc., of causes or matters (O. 4, r. 1).

1.—(1) Where two or more causes or matters are pending, then, if it appears to the Court —

- (a) that some common question of law or fact arises in both or all of them;
- (b) that the rights to relief claimed therein are in respect of or arise out of the same transaction or series of transactions; or
- (c) that for some other reason it is desirable to make an order under this Rule,

the Court may order those causes or matters to be consolidated on such terms as it thinks just or may order them to be tried at the same time or one immediately after another or may order any of them to be stayed until after the determination of any other of them.

(2) An order for consolidation must be in Form 1 and shall direct that the cause or matter in which the application is made shall thence forward be carried on in such other cause or matter and that the title of such other cause or matter be amended by adding thereto the title of the cause or matter in which the application is made.

(3) Upon such order being made, the file of the cause or matter in which the application is made shall be transferred to and added to the file of such other cause or matter, and the copy of the order shall be left in place of the file so transferred, and a memorandum of the transfer shall be entered in the cause book against the cause or matter so consolidated.

ORDER 5

MODE OF BEGINNING CIVIL PROCEEDINGS

Mode of beginning civil proceedings (O. 5, r. 1).

1. Subject to the provisions of any written law and of these Rules, civil proceedings in the Court may be begun by writ, originating summons, originating motion or petition.

Proceedings which must be begun by writ (O. 5, r. 2).

2. Subject to any provision of any written law or of these Rules, by virtue of which any proceedings are expressly required to be begun otherwise than by writ, the following proceedings must, notwithstanding anything in Rule 4, be begun by writ, that is to say, proceedings —

- (a) in which a claim is made by the plaintiff for any relief or remedy for any tort, other than trespass to land;
- (b) in which a claim made by the plaintiff is based on an allegation of fraud;
- (c) in which a claim is made by the plaintiff for damages for breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under any written law or independently of any contract or of any such provision), where the damages claimed consist of or include damages in respect of death of any person or in respect of personal injuries to any person or in respect of damage to any property;
- (d) in which a claim is made by the plaintiff for damages for breach of promise of marriage;
- (e) in which a claim is made by the plaintiff in respect of the infringement of a patent.

In this Rule, “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.

Proceedings which must be begun by originating summons (O. 5, r. 3).

3. Proceedings by which an application is to be made to the Court or a Judge thereof under any written law must be begun by originating summons except where by these Rules or by or under any written law the application in question is expressly required or authorised to be made by some other means.

This Rule does not apply to an application made in pending proceedings.

Proceedings which may be begun by writ or originating summons (O. 5, r. 4).

4.—(1) Except in the case of proceedings which by these Rules or by or under any written law are required to be begun by writ or originating summons or are required or authorised to be begun by originating motion or petition, proceedings may be begun either by writ or by originating summons as the plaintiff considers appropriate.

(2) Proceedings —

(a) in which the sole or principal question at issue is or is likely to be, one of the construction of any written law or of any instrument made under any written law, or of any deed, will, contract or other document, or some other question of law; or

(b) in which there is unlikely to be any substantial dispute of fact,

are appropriate to be begun by originating summons unless the plaintiff intends in those proceedings to apply for judgment under Order 14 or for any other reason considers the proceedings more appropriate to be begun by writ.

Proceedings to be begun by motion or petition (O. 5, r. 5).

5. Proceedings may be begun by originating motion or petition if, but only if, by these Rules or by or under any written law the proceedings in question are required or authorised to be so begun.

Right to sue in person (O. 5, r. 6).

6.—(1) Subject to paragraph (2) and to Order 76, Rule 2, any person (whether or not he sues as a trustee or personal representative or in any other representative capacity) may begin and carry on proceedings in the Court by a solicitor or in person.

(2) Except as expressly provided by or under any written law, a body corporate may not begin or carry on any such proceedings otherwise than by a solicitor.

ORDER 6

WRITS OF SUMMONS: GENERAL PROVISIONS

Form of writ (O. 6, r. 1).

1. Every writ must be in Form 2.

Endorsement on writ (O. 6, r. 2).

- 2.—(1) Before a writ is issued, it must be endorsed —

- (a) with a statement of claim or, if the statement of claim is not endorsed on the writ, with a concise statement of the nature of the claim made or the relief or remedy required in the action begun thereby;
 - (b) where the claim made by the plaintiff is for a debt or liquidated demand only, with a statement of the amount claimed in respect of the debt or demand and for costs and also with a statement that further proceedings will be stayed if, within the time limited for appearing, the defendant pays the amount so claimed to the plaintiff or his solicitor;
 - (c) where the plaintiff sues in a representative capacity, with a statement of the capacity in which he sues;
 - (d) where a defendant is sued in a representative capacity, with a statement of the capacity in which he is sued;
 - (e) where the plaintiff sues by a solicitor, with the plaintiff's address and the solicitor's name or firm and a business address of his within the jurisdiction;
 - (f) where the plaintiff sues in person —
 - (i) with the address of his place of residence and, if his place of residence is not within the jurisdiction or if he has no place of residence, the address of a place within the jurisdiction at or to which documents for him may be delivered or sent; and
 - (ii) with his occupation; and
 - (g) with the number of days within which an appearance is required to be entered under Order 12, Rule 4.
- (2) The address for service of a plaintiff shall be —
 - (a) where he sues by a solicitor, the business address of the solicitor endorsed on the writ; and
 - (b) where he sues in person, the address within the jurisdiction endorsed on the writ.

Issue of writ (O. 6, r. 3).

3.—(1) A plaintiff or his solicitor must, on presenting a writ for sealing, leave with the Registrar the original and a copy together with as many copies thereof as there are defendants to be served.

(2) The Registrar shall assign a serial number to the writ and shall sign, seal and date the writ whereupon the writ shall be deemed to be issued.

(3) The original writ must be filed in the Registry and an entry thereof made in the cause book.

Duration and renewal of writ (O. 6, r. 4).

4.—(1) Subject to the other provisions of these Rules, for the purposes of service, a writ is valid in the first instance —

(a) where leave to serve the writ out of the jurisdiction is required under Order 11, for 12 months; and

(b) in any other case, for 6 months,

beginning with the date of its issue.

(2) Subject to paragraph (2A), where a writ has not been served on a defendant, the Court may by order extend the validity of the writ from time to time for such period, not exceeding 6 months at any one time, beginning with the day next following that on which it would otherwise expire, as may be specified in the order, if an application for extension is made to the Court before that day or such later day (if any), as the Court may allow.

(2A) Where the Court is satisfied on an application under paragraph (2) that, despite the making of reasonable efforts, it may not be possible to serve a writ within 6 months, the Court may, if it thinks fit, extend the validity of the writ for such period, not exceeding 12 months at any one time, as the Court may specify.

(3) Before a writ, the validity of which has been extended under this Rule, is served, it must be marked with an official stamp in Form 5 showing the period from which the validity of the writ has been so extended.

(4) A note of the renewal must be entered in the cause book.

ORDER 7**ORIGINATING SUMMONSES: GENERAL PROVISIONS****Application (O. 7, r. 1).**

1. The provisions of this Order apply to all originating summonses subject, in the case of originating summonses of any particular class, to any special provisions relating to originating summonses of that class made by these Rules or by or under any written law.

Forms of summons, etc. (O. 7, r. 2).

2.—(1) Every originating summons must be in Form 6, 7 or 8 whichever is appropriate.

(2) The party taking out an originating summons (other than an ex parte summons) shall be described as a plaintiff, and the other party shall be described as a defendant.

Contents of summons (O. 7, r. 3).

3.—(1) Every originating summons must include a statement of the questions on which the plaintiff seeks the determination or direction of the Court or, as the case may be, a concise statement of the relief or remedy claimed in the proceedings begun by the originating summons with sufficient particulars to identify the cause or causes of action in respect of which the plaintiff claims that relief or remedy.

(2) Order 6, Rule 2, shall apply in relation to an originating summons as it applies in relation to a writ.

Issue of summons (O. 7, r. 4).

4. Order 6, Rule 3, shall apply in relation to an originating summons as it applies in relation to a writ.

Duration and renewal of summons (O. 7, r. 5).

5. Order 6, Rule 4, shall apply in relation to an originating summons as it applies in relation to a writ.

Ex-parte originating summons (O. 7, r. 6).

6.—(1) Rules 2 (1), 3 (1) and 4 shall, so far as applicable, apply to ex-parte originating summonses; but, except as aforesaid, Rules 1 to 5 shall not apply to ex- parte originating summonses.

(2) Order 6, Rule 3 (2) shall, with the necessary modifications, apply in relation to an ex-parte originating summons as it applies in relation to a writ.

ORDER 8**ORIGINATING AND OTHER MOTIONS: GENERAL PROVISIONS****Application (O. 8, r. 1).**

1. The provisions of this Order apply to all motions subject, in the case of originating motions of any particular class, to any special provisions relating to motions of that class made by these Rules or by or under any written law.

Notice of motion (O. 8, r. 2).

2.—(1) Except where an application by motion may properly be made ex-parte, no motion shall be made without previous notice to the parties affected thereby, but the Court, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief may make an order ex-parte on such terms as to costs or otherwise, and subject to such undertaking, if any, as it thinks just; and any party affected by such order may apply to the Court to set it aside.

(2) Unless the Court gives leave to the contrary, there must be at least 2 clear days between the service of notice of a motion and the day named in the notice for hearing the motion.

Form and issue of notice of motion (O. 8, r. 3).

3.—(1) The notice of an originating motion must be in Form 9 and the notice of any other motion in Form 10.

Where leave has been given under Rule 2 (2) to serve short notice of motion, that fact must be stated in the notice.

(2) The notice of a motion must include a concise statement of the nature of the claim made or the relief or remedy required.

(3) Order 6, Rule 2 (1) (e) and (f) and (2), shall, with the necessary modifications, apply in relation to notice of an originating motion as it applies in relation to a writ.

(4) Issue of the notice takes place upon its being sealed by an officer of the Registry.

Service of notice of motion with writ, etc. (O. 8, r. 4).

4. Notice of a motion to be made in an action may be served by the plaintiff on the defendant with the writ of summons or originating summons or at any time after service of such writ or summons, whether or not the defendant has entered an appearance in the action.

Adjournment of hearing (O. 8, r. 5).

5. The hearing of any motion may be adjourned from time to time on such terms, if any, as the Court thinks fit.

Application (O. 8, r. 6).

6. This Order shall only apply to proceedings in the Supreme Court.

ORDER 9

PETITIONS: GENERAL PROVISIONS

Application (O. 9, r. 1).

1. Rules 2 and 3 apply to petitions by which civil proceedings in the Court are begun, subject, in the case of petitions of any particular class, to any special provisions relating to petitions of that class made by these Rules or by or under any written law.

Contents of petition (O. 9, r. 2).

2.—(1) Every petition must include a concise statement of the nature of the claim made or the relief or remedy required in the proceedings begun thereby.

(2) Every petition must include at the end thereof a statement of the names of the persons, if any, required to be served therewith or, if no person is required to be served, a statement to that effect.

(3) Order 6, Rule 2 (1) (e) and (f) and (2), shall, with the necessary modifications, apply in relation to a petition as it applies in relation to a writ.

Fixing time for hearing petition (O. 9, r. 3).

3.—(1) A day and time for the hearing of a petition which is required to be heard shall be fixed by the Registrar.

(2) Unless the Court otherwise directs, a petition which is required to be served on any person must be served on him not less than 7 days before the day fixed for the hearing of the petition.

Certain applications not to be made by petition (O. 9, r. 4).

4. No application in any cause or matter may be made by petition.

ORDER 10

SERVICE OF ORIGINATING PROCESS: GENERAL PROVISIONS

General provisions (O. 10, r. 1).

1.—(1) Subject to the provisions of any written law and these Rules, a writ must be served personally on each defendant.

(2) Where a defendant's solicitor endorses on the writ a statement that he accepts service of the writ on behalf of that defendant, the writ shall be deemed to have been duly served on that defendant and to have been so served on the date on which the endorsement was made.

(3) Subject to Order 12, Rule 6, where a writ is not duly served on a defendant but he enters an appearance in the action begun by the writ, the writ shall be deemed to have been duly served on him and to have been so served on the date on which he entered the appearance.

(4) Where a writ is duly served on a defendant otherwise than by virtue of paragraph (2) or (3), then, subject to Order 11, Rule 3, unless within 3 days after service the person serving it endorses on it the following particulars, that is to say, the day of the week and date on which it was served, where it was served, the person on whom it was served, and, where he is not the defendant, the capacity in which he was served, the plaintiff in the action begun by the writ shall not be entitled to enter final or interlocutory judgment against that defendant in default of appearance or in default of defence, unless the Court otherwise orders.

Service of writ on agent of overseas principal (O. 10, r. 2).

2.—(1) Where the Court is satisfied on an ex parte application that —

- (a) an action relates to any business or work against a person who does not reside within Singapore or who is absent from Singapore;
- (b) an agent or manager has, at the time of service, personally the control or management of such business or work for such person within Singapore; and
- (c) at the time of the application either the agent's or manager's authority has not been determined, or he is still in business relations with the principal,

the Court may authorise service of a writ of summons to be effected on such agent or manager instead of the principal.

(2) For the purpose of this Rule, the agent of a ship shall be deemed to be the agent of the owner and charterer of the ship.

(3) For the purpose of this Rule, the words “business or work” shall include the administration of an estate.

(4) Every application under this Rule must be supported by an affidavit stating the nature of the claim.

(5) An order under this Rule authorising service of a writ on a defendant's agent or manager must allow the defendant 21 days, or such extended time as the Court sees fit, to enter appearance.

(6) Where an order is made under this Rule authorising service of a writ on a defendant's agent or manager, a copy of the order and of the writ must be sent by prepaid registered post to the defendant at his address out of the jurisdiction if known to the plaintiff.

Service of writ in pursuance of contract (O. 10, r. 3).

3.—(1) Where —

- (a) a contract contains a term to the effect that the Court shall have jurisdiction to hear and determine any action in respect of a contract or, apart from any such term, the Court has jurisdiction to hear and determine any such action; and
- (b) the contract provides that, in the event of any action in respect of the contract being begun, the process by which it is begun may be served on the defendant, or on such other person on his behalf as may be specified in the contract, in such manner or at such place (whether within or out of the jurisdiction), as may be so specified, then if an action in respect of the contract is begun in the Court and the writ by which it is begun is served in accordance with the contract the writ shall, subject to paragraph (2), be deemed to have been duly served on the defendant.

(2) A writ which is served out of the jurisdiction in accordance with a contract shall not be deemed to have been duly served on the defendant by virtue of paragraph (1) unless leave to serve the writ out of the jurisdiction has been granted under Order 11.

Service of writ in certain actions for possession of immovable property (O. 10, r. 4).

4. Where a writ is endorsed with a claim for the possession of immovable property the Court may —

- (a) if satisfied on an ex parte application that no person appears to be in possession of the immovable property and that service cannot be otherwise effected on any defendant, authorise service on that defendant to be effected by affixing a copy of the writ to some conspicuous part of the immovable property;
- (b) if satisfied on such an application that no person appears to be in possession of the immovable property and that service could not otherwise have been effected on any defendant, order that service already effected by affixing a copy of the writ to some conspicuous part of the immovable property shall be treated as good service on that defendant.

Service of originating summons, petition and notice of motion (O. 10, r. 5).

5. Rules 1 to 4 (except Rule 1 (4)) shall apply in relation to an originating summons to which an appearance is required to be entered as they apply in relation to a writ, and Rule 1 (1) and (2) shall, with any necessary modifications, apply in relation to an originating summons to which no appearance need be entered, a notice of an originating motion and a petition as they apply in relation to a writ.

ORDER 11

SERVICE OF PROCESS OUT OF SINGAPORE

Cases in which service out of Singapore is permissible (O. 11, r. 1).

1. Provided that the originating process does not contain any claim mentioned in Order 70, Rule 3 (1), service of an originating process out of Singapore is permissible with the leave of the Court if in the action —

- (a) relief is sought against a person who is domiciled, ordinarily resident, carrying on business or who has property in Singapore;
- (b) an injunction is sought ordering the defendant to do or refrain from doing anything in Singapore (whether or not damages are also claimed in respect of a failure to do or the doing of that thing);
- (c) the claim is brought against a person duly served in or out of Singapore and a person out of Singapore is a necessary or proper party thereto;
- (d) the claim is brought to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain other relief in respect of the breach of a contract, being (in either case) a contract which —
 - (i) was made in Singapore;
 - (ii) was made by or through an agent trading or residing in Singapore on behalf of a principal trading or residing out of Singapore;
 - (iii) is by its terms, or by implication, governed by the law of Singapore; or
 - (iv) contains a term to the effect that that Court shall have jurisdiction to hear and determine any action in respect of the contract;
- (e) the claim is brought in respect of a breach committed in Singapore of a contract made in or out of Singapore and irrespective of the fact, if such be the case, that the breach was preceded or accompanied by a breach committed out of Singapore that rendered impossible the performance of so much of the contract as ought to have been performed in Singapore;
- (f)
 - (i) the claim is founded on a tort committed in Singapore; or
 - (ii) the claim is wholly or partly founded on, or is for the recovery of damages in respect of, damage suffered in Singapore caused by a tortious act or omission wherever occurring;

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- (g) the whole subject-matter is immovable property situate in Singapore (with or without rents or profits) or the perpetuation of testimony relating to immovable property so situate;
 - (h) the claim is brought to construe, rectify, set aside or enforce an act, deed, will, contract, obligation or liability affecting immovable property situate in Singapore;
 - (i) the claim is made for a debt secured on immovable property or is made to assert, declare or determine proprietary or possessory rights, or rights of security, in or over movable property, or to obtain authority to dispose of movable property, situate in Singapore;
 - (j) the claim is brought to execute the trusts of a written instrument, being trusts that ought to be executed according to the law of Singapore and of which the person to be served with the originating process is a trustee, or for any relief or remedy which might be obtained in any such action;
 - (k) the claim is made for the administration of the estate of a person who died domiciled in Singapore or for any relief or remedy which might be obtained in any such action;
 - (l) the claim is brought in a probate action within the meaning of Order 72;
 - (m) the claim is brought to enforce any judgment or arbitral award;
 - (n) the claim is made under the Corruption (Confiscation of Benefits) Act (Chapter 65A), the Drug Trafficking (Confiscation of Benefits) Act (Chapter 84A) or any other written law;
 - (o) the claim is brought for money had and received or for an account or other relief against the defendant as constructive trustee, and the defendant's alleged liability arises out of acts committed, whether by him or otherwise, in Singapore;
 - (p) the claim is founded on a cause of action arising in Singapore;
 - (q) the claim is for a contribution or an indemnity in respect of a liability enforceable by proceedings in Singapore;
 - (r) the claim is in respect of matters in which the defendant has submitted or agreed to submit to the jurisdiction of the Court;
or
 - (s) the claim concerns the construction, effect or enforcement of any written law.

Manner of application (O. 11, r. 2).

2.—(1) An application for the grant of leave under Rule 1 must be made by an ex parte summons in chambers supported by an affidavit in Form 12 stating —

- (a) the grounds on which the application is made;
- (b) that in the deponent's belief the plaintiff has a good cause of action;
- (c) in what place or country the defendant is, or probably may be found;
- (d) where the application is made under Rule 1 (c), the grounds for the deponent's belief that there is between the plaintiff and the person on whom an originating process has been served a real issue which the plaintiff may reasonably ask the Court to try; and
- (e) whether it is necessary to extend the validity of the writ.

(2) No such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of Singapore under this Order.

(3) An order granting leave under Rule 1 shall be in Form 13 and shall allow the defendant 21 days to enter an appearance unless the Court otherwise orders or any written law provides.

Service of originating process abroad: Alternative modes (O. 11, r. 3).

3.—(1) Subject to paragraphs (2) to (8), Order 10, Rule 1, and Order 62, Rule 5, shall apply in relation to the service of an originating process out of Singapore.

(2) Nothing in this Rule or in any order or direction of the Court made by virtue of it shall authorise or require the doing of anything in a country in which service is to be effected which is contrary to the law of that country.

(3) An originating process which is to be served out of Singapore need not be served personally on the person required to be served so long as it is served on him in accordance with the law of the country in which service is effected.

(4) Where a certificate under this Rule is produced in relation to the service of an originating process in accordance with Rule 4 or 7, Order 10, Rule 1 (4), shall not apply in relation to that service.

(5) An official certificate stating that an originating process as regards which Rule 4 has been complied with has been served on a person personally, or in accordance with the law of the country in which service was effected, on a specified date, being a certificate —

- (a) by a Singapore consular authority in that country;
- (b) by the government or judicial authorities of that country; or
- (c) by any other authority designated in respect of that country, under the Hague Convention,

shall be evidence of the facts so stated.

(6) An official certificate by the Minister stating that an originating process has been duly served on a specified date in accordance with a request made under Rule 5 shall be evidence of that fact.

(7) A document purporting to be such a certificate as is mentioned in paragraph (4) or (5) shall, until the contrary is proved, be deemed to be such a certificate.

(8) Where the defendant is in Malaysia or Brunei Darussalam, the originating process —

- (a) may be served in accordance with Rule 4; or
- (b) may be sent by post or otherwise by the Registrar to the Magistrate, Registrar or other appropriate officer of any court exercising civil jurisdiction in the area in which the person to be served is said to be or to be carrying on business for service on the defendant, and if it is returned with an endorsement of service and with an affidavit of such service, it shall be deemed to have been duly served.

Service of originating process abroad through foreign governments, judicial authorities and Singapore consuls or by other method of service (O. 11, r. 4).

4.—(1) Where in accordance with these Rules an originating process is to be served on a defendant in any country with respect to which there subsists a Civil Procedure Convention providing for service in that country of process of the High Court, the originating process may be served —

- (a) through the judicial authorities of that country; or
- (b) through a Singapore consular authority in that country (subject to any provision of the convention as to the nationality of persons who may be so served).

(2) Where in accordance with these Rules an originating process is to be served on a defendant in any country with respect to which there does not subsist a Civil Procedure Convention providing for service in that country of process of the High Court, the originating process may be served —

- (a) through the government of that country, where that government is willing to effect service;
- (b) through a Singapore consular authority in that country, except where service through such an authority is contrary to the law of that country; or
- (c) by a method of service authorised by the law of that country for service of any originating process issued by that country.

(3) Where a person wishes to serve an originating process in any country —

- (a) through the judicial authorities of that country under paragraph (1);
- (b) through a Singapore consular authority under paragraph (1) or (2); or
- (c) through the government of that country under paragraph (2),

that person must lodge in the Registry a request in Form 14 for service of the originating process by that method, together with a copy of the originating process and an additional sealed copy thereof for each person to be served.

(4) Every copy of an originating process lodged under paragraph (3) must be accompanied by a translation of the originating process in the official language of the country in which service is to be effected or, if there is more than one official language of that country, in any of those languages which is appropriate to the place in that country where service is to be effected:

Provided that this paragraph shall not apply in relation to a copy of an originating process which is to be served in a country the official language of which is, or the official languages of which include, English, or is to be served in any country by a Singapore consular authority on a Singapore citizen, unless the service is to be effected under paragraph (1) and the Civil Procedure Convention with respect to that country expressly requires the copy to be accompanied by a translation.

(5) Every translation lodged under paragraph (4) must be certified by the person making it to be a correct translation; and the certificate must contain a statement of that person's full name, of his address and of his qualifications for making the translation.

(6) Documents duly lodged under paragraph (3) shall be sent by the Registrar to the Permanent Secretary to the Ministry of Foreign Affairs with a request that he arrange for the originating process to be served by the method indicated in the request lodged under paragraph (3) or, where alternative methods are so indicated, by such one of those methods as is most convenient.

Service of originating process in certain actions under certain written law (O. 11, r. 5).

5.—(1) Where a person to whom leave has been granted under Rule 2 to serve an originating process on a High Contracting Party to the Warsaw Convention, being an originating process beginning an action to enforce a claim in respect of carriage undertaken by that Party, wishes to have the originating process served on that Party, he must lodge in the Registry —

- (a) a request for service to be arranged by the Minister;
- (b) a sealed copy of the originating process; and
- (c) except where the official language of the High Contracting Party is, or the official languages of that Party include, English, a translation of the originating process in the official language or one of the official languages of the High Contracting Party.

(2) Rule 4 (5) shall apply in relation to a translation lodged under paragraph (1) as it applies in relation to a translation lodged under Rule 4 (4).

(3) Documents duly lodged under this Rule shall be sent by the Registrar to the Permanent Secretary to the Ministry of Foreign Affairs with a request that he arrange for the originating process to be served on the High Contracting Party or the government in question, as the case may be.

Undertaking to pay expenses of service incurred by Minister (O. 11, r. 6).

6. Every request lodged under Rule 4 (3) or 5 must contain an undertaking by the person making the request to be responsible personally for all expenses incurred by the Minister in respect of the service requested and, on receiving due notification of the amount of those expenses, to pay that amount to the office of the said Minister and to produce a receipt for the payment to the proper officer in the Registry.

Service of process on a foreign State (O. 11, r. 7).

7.—(1) Subject to paragraph (2) where a person to whom leave has been granted under Rule 2 to serve an originating process on a State, as defined in section 16 of the State Immunity Act (Chapter 313), wishes to have the originating process served on that State, he must lodge in the Registry —

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- (a) a request for service to be arranged by the Permanent Secretary to the Ministry of Foreign Affairs;
 - (b) a sealed copy of the originating process; and
 - (c) except where the official language of the State is, or the official languages of that State include, English, a translation of the originating process in the official language or one of the official languages of the State.

(2) Rule 4 (5) shall apply in relation to a translation lodged under paragraph (1) as it applies in relation to a translation lodged under Rule 4 (4).

(3) Documents duly lodged under this Rule shall be sent by the Registrar to the Permanent Secretary to the Ministry of Foreign Affairs with a request that he arrange for the originating process to be served on the State or the government in question, as the case may be.

(4) Where section 14 (6) of the State Immunity Act applies and the State has agreed to a method of service other than that provided by this Rule, the originating process may be either by the method agreed or in accordance with this Rule.

Service of summons, notice or order out of Singapore (O. 11, r. 8).

8.—(1) Subject to Order 69, Rule 5, service out of Singapore of any summons, notice or order issued, given or made in any proceedings is permissible only with the leave of the Court but leave shall not be required in any proceedings in which leave for service of the originating process has already been granted.

(2) Rule 2 shall, so far as applicable, apply in relation to an application for the grant of leave under this Rule.

(3) Rules 3, 4 and 6 shall apply in relation to any document for the service of which out of Singapore leave has been granted under this Rule as they apply in relation to an originating process.

Service abroad of Subordinate Courts documents (O. 11, r. 9).

9.—(1) An originating process issued in the Subordinate Courts which is to be served out of Singapore in a country, other than Malaysia or Brunei Darussalam, shall be sent by the Registrar of the Subordinate Courts to the Registrar of the Supreme Court and shall be served in accordance with these Rules relating to the service out of Singapore of an originating process issued in the Supreme Court.

(2) Every certificate of service received by the Registrar of the Supreme Court in respect of such service shall be transmitted by him to the Registrar of the Subordinate Courts.

ORDER 12ENTRY OF APPEARANCE TO WRIT OR
ORIGINATING SUMMONS**Mode of entering appearance (O. 12, r. 1).**

1.—(1) Subject to paragraph (2) and Order 76, Rule 2, a defendant to an action begun by writ may (whether or not he is sued as a trustee or personal representative or in any other representative capacity) enter an appearance in the action and defend it by a solicitor or in person.

(2) Except as expressly provided by any written law, a defendant to such an action who is a body corporate may not enter an appearance in the action or defend it otherwise than by a solicitor.

(3) An appearance is entered by properly completing a memorandum of appearance, as defined by Rule 2, and a copy thereof, and handing them in at the Registry.

(4) If two or more defendants to an action enter an appearance by the same solicitor and at the same time, only one memorandum of appearance need be completed and delivered for those defendants.

Memorandum of appearance (O. 12, r. 2).

2.—(1) A memorandum of appearance is a request to the Registry to enter an appearance for the defendant or defendants specified in the memorandum.

(2) A memorandum of appearance must be in Form 15 and both the memorandum of appearance and the copy thereof required for entering an appearance must be signed by the solicitor by whom the defendant appears or, if the defendant appears in person, by the defendant.

(3) A memorandum of appearance must specify —

(a) in the case of a defendant appearing in person, the address of his place of residence and, if his place of residence is not within the jurisdiction or if he has no place of residence, the address of a place within the jurisdiction at or to which documents for him may be delivered or sent; and

(b) in the case of a defendant appearing by a solicitor a business address of his solicitor within the jurisdiction, and where the defendant enters an appearance in person, the address within the jurisdiction specified under sub-paragraph (a) shall be his address for service, but otherwise his solicitor's business address shall be his address for service.

(4) If the memorandum of appearance does not specify the defendant's address for service or the Court is satisfied that any address specified in the memorandum of appearance is not genuine, the Court may on application

by the plaintiff set aside the appearance or order the defendant to give an address or, as the case may be, a genuine address for service and may in any case direct that the appearance shall nevertheless have effect for the purposes of Order 10, Rule 1 (3), and Order 62, Rule 10.

Procedure on receipt of memorandum of appearance (O. 12, r. 3).

3.—(1) On receiving the memorandum of appearance and the copy thereof, an officer of the Registry must in all cases affix to the copy of the memorandum of appearance an official stamp showing the date on which he received those documents and enter the appearance in the Cause Book, and hand back that copy of the memorandum.

(2) Where the defendant enters an appearance, he must on the date on which he enters the appearance send by post to the plaintiff, if the plaintiff sues in person, but otherwise to the plaintiff's solicitor, at the plaintiff's address for service, the copy of the memorandum of appearance handed back to him under paragraph (1).

Time limited for appearing (O. 12, r. 4).

4. References in these Rules to the time limited for appearing are references —

- (a) in the case of a writ served within the jurisdiction, to 8 days after service of the writ (including the day of service) or, where that time has been extended by or by virtue of these Rules, to that time as so extended; and
- (b) in the case of a writ served out of the jurisdiction, to 21 days after service of the writ as provided for in Order 11, Rule 2, or Order 10, Rule 2 or to such extended time as the Court may otherwise allow.

Late appearance (O. 12, r. 5).

5.—(1) A defendant may not enter an appearance in an action after judgment has been entered therein except with the leave of the Court.

(2) Except as provided by paragraph (1), nothing in these Rules or any writ or order thereunder shall be construed as precluding a defendant from entering an appearance in an action after the time limited for appearing, but if a defendant enters an appearance after that time, he shall not, unless the Court otherwise orders, be entitled to serve a defence or do any other thing later than if he had appeared within that time.

Appearance not to constitute a waiver (O. 12, r. 6).

6. The appearance by a defendant in an action shall not be treated as a waiver by him of any irregularity in the writ or service thereof or in any order giving leave to serve the writ out of the jurisdiction or extending the validity of the writ for the purpose of service.

Dispute as to jurisdiction (O. 12, r. 7).

7.—(1) A defendant who wishes to dispute the jurisdiction of the Court in the proceedings by reason of any such irregularity as is mentioned in Rule 6 or on any other ground shall enter an appearance and within the time limited for serving a defence apply to the Court for —

- (a) an order setting aside the writ or service of the writ on him;
- (b) an order declaring that the writ has not been duly served on him;
- (c) the discharge of any order giving leave to serve the writ on him out of the jurisdiction;
- (d) the discharge of any order extending the validity of the writ for the purpose of service;
- (e) the protection or release of any property of the defendant seized or threatened with seizure in the proceedings;
- (f) the discharge of any order made to prevent any dealing with any property of the defendant;
- (g) a declaration that in the circumstances of the case the Court has no jurisdiction over the defendant in respect of the subject-matter of the claim or the relief or remedy sought in the action; or
- (h) such other relief as may be appropriate.

(2) An application under paragraph (1) must be made by summons which must state the grounds of the application.

(3) An application under paragraph (1) must be supported by an affidavit verifying the facts on which the application is based and a copy of the affidavit must be served with the summons.

(4) Upon the hearing of an application under paragraph (1), the Court may make such order as it thinks fit and may give such directions for its disposal as may be appropriate, including directions for the trial thereof as a preliminary issue.

(5) A defendant who makes an application under paragraph (1) shall not be treated as having submitted to the jurisdiction of the Court by reason of his having entered an appearance and if the Court makes no order on the application or dismisses it, paragraph (6) shall apply as if the defendant had not made any such application.

(6) Except where the defendant makes an application in accordance with paragraph (1), the appearance by a defendant shall, unless the appearance is withdrawn by leave of the Court under Order 21, Rule 1, be treated as a submission by the defendant to the jurisdiction of the Court in the proceedings.

Application by defendant where writ not served (O. 12, r. 8).

8.—(1) Any person named as a defendant in a writ which has not been served on him may serve on the plaintiff a notice requiring him within a specified period that is not less than 14 days after service of the notice either to serve the writ on the defendant or to discontinue the action as against him.

(2) Where the plaintiff fails to comply with a notice under paragraph (1) within the time specified, the Court may, on the application of the defendant by summons, order the action to be dismissed or make such other order as it thinks fit.

(3) A summons under paragraph (2) shall be supported by an affidavit verifying the facts on which the application is based and stating that the defendant intends to contest the proceedings and a copy of the affidavit must be served with the summons.

(4) Where the plaintiff serves the writ in compliance with a notice under paragraph (1) or with an order under paragraph (2), the defendant must enter an appearance within the time limited for so doing.

Appearance to originating summons (O. 12, r. 9).

9.—(1) Subject to paragraph (2), an appearance must be entered to every originating summons (other than an ex parte originating summons) by each defendant named in and served with the summons.

(2) No appearance need be entered to an originating summons in any case or class of case in relation to which special provision to that effect is made by these Rules or under any written law.

(3) Subject to paragraphs (1) and (2), Rules 1 to 8 shall apply, with necessary modifications, in relation to an originating summons to which an appearance is required to be entered as they apply in relation to a writ.

ORDER 13**DEFAULT OF APPEARANCE TO WRIT****Claim for liquidated demand (O. 13, r. 1).**

1.—(1) Where a writ is endorsed with a claim against a defendant for a liquidated demand only, then, if that defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing, enter final judgment against that defendant for a sum not exceeding that claimed by the writ in respect of the demand and for costs, and proceed with the action against the other defendants, if any.

(2) A claim shall not be prevented from being treated for the purposes of this Rule as a claim for a liquidated demand by reason only that part of the claim is for interest accruing after the date of the writ at an unspecified rate, but any such interest shall be computed from the date of the writ to the date of entering judgment at the rate of 6% or at such other rate as the Chief Justice may from time to time direct.

Claim for unliquidated damages (O. 13, r. 2).

2. Where a writ is endorsed with a claim against a defendant for unliquidated damages only, then, if that defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing, enter interlocutory judgment against that defendant for damages to be assessed and costs, and proceed with the action against the other defendants, if any.

Claim in detinue (O. 13, r. 3).

3. Where a writ is endorsed with a claim against a defendant relating to the detention of movable property only, then, if that defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing, at his option enter either —

- (a) interlocutory judgment against the defendant for the delivery of the property or their value to be assessed and costs; or
- (b) interlocutory judgment for the value of the property to be assessed and costs,

and proceed with the action against the other defendants, if any.

Claim for possession of immovable property (O. 13, r. 4).

4.—(1) Where a writ is endorsed with a claim against a defendant for possession of immovable property only, then, if that defendant fails to enter an appearance the plaintiff may, after the time limited for appearing, and on producing a certificate by his solicitor, or (if he sues in person) an affidavit, stating that he is not claiming any relief in the action of the nature specified in Order 83, Rule 1, enter judgment for possession of the immovable property as against that defendant and costs, and proceed with the action against the other defendants, if any.

(2) Where there is more than one defendant, judgment entered under this Rule shall not be enforced against any defendant until judgment for possession of the immovable property has been entered against all the defendants.

Mixed claims (O. 13, r. 5).

5. Where a writ issued against any defendant is endorsed with two or more of the claims mentioned in Rules 1 to 4, and no other claim, then, if that defendant fails to enter an appearance, the plaintiff may, after the

time limited for appearing, enter against that defendant such judgment in respect of any such claim as he would be entitled to enter under these Rules if that were the only claim endorsed on the writ, and proceed with the action against the other defendants, if any.

Other claims (O. 13, r. 6).

6.—(1) Where a writ is endorsed with a claim of a description not mentioned in Rules 1 to 4, then, if any defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing and upon filing an affidavit proving due service of the writ on that defendant and, where the statement of claim was not endorsed on or served with the writ, upon serving a statement of claim on him, proceed with the action as if that defendant had entered an appearance.

(2) Where a writ issued against a defendant is endorsed as aforesaid, but by reason of the defendant's satisfying the claim or complying with the demands thereof or for any other like reason it has become unnecessary for the plaintiff to proceed with the action, then, if the defendant fails to enter an appearance, the plaintiff may, after the time limited for appearing, enter judgment with the leave of the Court against that defendant for costs.

(3) An application for leave to enter judgment under paragraph (2) shall be by summons which must, unless the Court otherwise orders, and notwithstanding anything in Order 62, Rule 10, be served on the defendant against whom it is sought to enter judgment.

Proof of service of writ (O. 13, r. 7).

7.—(1) Judgment shall not be entered against a defendant under this Order unless —

(a) the plaintiff produces a certificate of non-appearance in Form 17; and

(b) either an affidavit is filed by or on behalf of the plaintiff proving due service of the writ on the defendant, or the plaintiff produces the writ endorsed by the defendant's solicitor with a statement that he accepts service of the writ on the defendant's behalf.

(2) Where, in an action begun by writ, an application is made to the Court for an order affecting a party who has failed to enter an appearance, the Court hearing the application may require to be satisfied in such manner as it thinks fit that the party is in default of appearance.

Setting aside judgment (O. 13, r. 8).

8. The Court may, on such terms as it thinks just, set aside or vary any judgment entered in pursuance of this Order.

ORDER 14SUMMARY JUDGMENT AND DISPOSAL OF
CASE ON POINT OF LAW**Application by plaintiff for summary judgment (O. 14, r. 1).**

1. Where a statement of claim has been served on a defendant and that defendant has entered an appearance in the action, the plaintiff may, on the ground that that defendant has no defence to a claim included in the writ, or to a particular part of such a claim, or has no defence to such a claim or part except as to the amount of any damages claimed, apply to the Court for judgment against that defendant.

Manner in which application under Rule 1 must be made (O. 14, r. 2).

2.—(1) An application under Rule 1 must be made by summons supported by an affidavit or affidavits.

(2) The summons and the affidavit or affidavits in support must be filed at the same time, and must be served on the defendant within 3 days from the date of filing.

(3) The defendant on whom the summons and the affidavit or affidavits in support have been served may show cause against the plaintiff's application by affidavit or otherwise to the satisfaction of the Court.

(4) If the defendant wishes to show cause against the plaintiff's application by affidavit, he must file and serve his affidavit or affidavits on the plaintiff within 21 days after service of the plaintiff's summons and affidavit or affidavits.

(5) The plaintiff must, if he wishes to reply to the defendant's affidavit or affidavits, file and serve his affidavit or affidavits on the defendant within 14 days after service of the defendant's affidavit or affidavits.

(6) No further affidavit shall be received in evidence without the leave of the Court.

(7) Where a party files or serves an affidavit beyond the period of time specified in this Rule, the Court may make such order as to costs against that party as it considers fit.

(8) An affidavit or affidavits for the purpose of this Rule must contain all necessary evidence in support of or in opposition (as the case may be) to the claim, or a part of the claim, to which the application relates, and unless the Court otherwise directs, may contain statements of information or belief with the sources and grounds thereof.

Judgment for plaintiff (O. 14, r. 3).

3.—(1) Unless on the hearing of an application under Rule 1 either the Court dismisses the application or the defendant satisfies the Court with respect to the claim, or part of a claim, to which the application relates that there is an issue or question in dispute which ought to be tried or that there ought for some other reason to be a trial of that claim or part, the Court may give such judgment for the plaintiff against that defendant on that claim or part as may be just having regard to the nature of the remedy or relief claimed.

(2) The Court may by order, and subject to such conditions, if any, as may be just, stay execution of any judgment given against a defendant under this Rule until after the trial of any counterclaim made or raised by the defendant in the action.

Leave to defend (O. 14, r. 4).

4.—(1) The Court may give a defendant against whom an application under Rule 1 is made leave to defend the action with respect to the claim, or the part of a claim, to which the application relates either unconditionally or on such terms as to giving security or time or mode of trial or otherwise as it thinks fit.

(2) On the hearing of such an application the Court may order a defendant showing cause or, where that defendant is a body corporate, any director, manager, secretary or other similar officer thereof, or any person purporting to act in any such capacity —

- (a) to produce any document; and
- (b) if it appears to the Court that there are special circumstances which make it desirable that he should do so, to attend and be examined on oath.

Application for summary judgment on counterclaim (O. 14, r. 5).

5.—(1) Where a defendant to an action begun by writ has served a counterclaim on the plaintiff, the defendant may, on the ground that the plaintiff has no defence to a claim made in the counterclaim, or to a particular part of such a claim, apply to the Court for judgment against the plaintiff on that claim or part.

(2) Rules 2, 3 and 4 shall apply in relation to an application under this Rule as they apply in relation to an application under Rule 1 but with the following modifications:

- (a) references to the plaintiff and defendant shall be construed as references to the defendant and plaintiff respectively;
- (b) the words “any counterclaim made or raised by the defendant in” in Rule 3 (2) shall be omitted; and

- (c) the reference in Rule 4 (1) to the action shall be construed as a reference to the counterclaim to which the application under this Rule relates.

Directions (O. 14, r. 6).

6.—(1) Where the Court —

- (a) orders that a defendant or a plaintiff has leave (whether conditional or unconditional) to defend an action or counterclaim, as the case may be, with respect to a claim or a part of a claim; or
- (b) gives judgment for a plaintiff or a defendant on a claim or part of a claim but also orders that execution of the judgment be stayed pending the trial of a counterclaim or of the action, as the case may be, the Court,

may give directions as to the further conduct of the action and Order 25, Rules 2 to 7 shall, with the omission of so much of Rule 7 (1) as requires parties to serve a notice specifying the orders and directions which they require and with any other necessary modifications, apply as if the application under Rule 1 or 5, as the case may be, on which the order was made were a summons for directions.

(2) In particular, and if the parties consent, the Court may direct that the claim in question and any other claim in the action be tried by the Registrar under the provisions of these Rules relating to the trial of causes or matters or questions or issues by the Registrar.

Costs (O. 14, r. 7).

7.—(1) If, on an application under Rule 1 or 5, it appears to the Court that the plaintiff knew that the defendant relied on a contention which would entitle him to unconditional leave to defend, then, the Court may dismiss the application with costs.

(2) The Court shall have the same power to dismiss an application under Rule 5 as it has under paragraph (1) to dismiss an application under Rule 1, and that paragraph shall apply accordingly with the necessary modifications.

Right to proceed with residue of action or counterclaim (O. 14, r. 8).

8.—(1) Where on an application under Rule 1 the plaintiff obtains judgment on a claim or a part of a claim against any defendant, he may proceed with the action as respects any other claim or as respects the remainder of the claim or against any other defendant.

(2) Where on an application under Rule 5 a defendant obtains judgment on a claim or part of a claim made in a counterclaim against the plaintiff, he may proceed with the counterclaim as respects any other claim or as respects the remainder of the claim or against any other defendant to the counterclaim.

Judgment for delivery up of movable property (O. 14, r. 9).

9. Where the claim is for the delivery up of a specific movable property and the Court gives judgment under this Order for the applicant, it shall have the same power to order the party against whom judgment is given to deliver up the property without giving him an option to retain it on paying the assessed value thereof as if the judgment had been given after trial.

Relief against forfeiture (O. 14, r. 10).

10. A tenant shall have the same right to apply for relief after judgment for possession of immovable property on the ground of forfeiture for non-payment of rent has been given under this Order as if the judgment had been given after trial.

Setting aside judgment (O. 14, r. 11).

11. Any judgment given against a party who does not appear at the hearing of an application under Rule 1 or 5 may be set aside or varied by the Court on such terms as it thinks just.

Determination of questions of law or construction of documents (O. 14, r. 12).

12.—(1) The Court may, upon the application of a party or of its own motion, determine any question of law or construction of any document arising in any cause or matter at any stage of the proceedings where it appears to the Court that —

- (a) such question is suitable for determination without a full trial of the action; and
- (b) such determination will fully determine (subject only to any possible appeal) the entire cause or matter or any claim or issue therein.

(2) Upon such determination, the Court may dismiss the cause or matter or make such order or judgment as it thinks just.

(3) The Court shall not determine any question under this Order unless the parties have had an opportunity of being heard on the question.

(4) Nothing in this Order shall limit the powers of the Court under Order 18, Rule 19 or any other provision of these Rules.

Manner in which application under Rule 12 may be made (O. 14, r. 13).

13. An application under Rule 12 may be made by summons or (notwithstanding Order 32, Rule 1) may be made orally in the course of any interlocutory application to the Court.

Appeals from the Subordinate Courts (O. 14, r. 14).

14.—(1) For proceedings in the Subordinate Courts, an appeal shall lie to a Judge of the High Court in Chambers from any judgment, order or decision of a Subordinate Court made in pursuance of this Order.

(2) The appeal shall be brought by serving on every other party to the proceedings in which the judgment, order or decision was given or made a notice in Form 114F to attend before the Judge of the High Court on the day specified in the notice.

(3) Unless the Subordinate Court otherwise orders, the notice must be filed within 14 days after the judgment, order or decision appealed against was given or made and served on all other parties within 7 days from the date of filing.

ORDER 15**CAUSES OF ACTION; COUNTERCLAIMS AND PARTIES****Joinder of causes of action (O. 15, r. 1).**

1.—(1) Subject to Rule 5 (1), a plaintiff may in one action claim relief against the same defendant in respect of more than one cause of action —

- (a) if the plaintiff claims, and the defendant is alleged to be liable, in the same capacity in respect of all the causes of action;
- (b) if the plaintiff claims or the defendant is alleged to be liable in the capacity of executor or administrator of an estate in respect of one or more of the causes of action and in his personal capacity but with reference to the same estate in respect of all the others; or
- (c) with the leave of the Court.

(2) An application for leave under this Rule must be made ex-parte by summons supported by affidavit before the issue of the writ or originating summons, as the case may be, and the affidavit must state the grounds of the application.

Counterclaim against plaintiff (O. 15, r. 2).

2.—(1) Subject to Rule 5 (2), a defendant in any action who alleges that he has any claim or is entitled to any relief or remedy against a plaintiff in the action in respect of any matter (whenever and however arising) may, instead of bringing a separate action, make a counterclaim in respect of that matter; and where he does so he must add the counterclaim to his defence.

(2) Rule 1 shall apply in relation to a counterclaim as if the counterclaim were a separate action and as if the person making the counterclaim were the plaintiff and the person against whom it is made a defendant.

(3) A counterclaim may be proceeded with notwithstanding that judgment is given for the plaintiff in the action or that the action is stayed, discontinued or dismissed.

(4) Where a defendant establishes a counterclaim against the claim of the plaintiff and there is a balance in favour of one of the parties, the Court may give judgment for the balance, so, however, that this provision shall not be taken as affecting the Court's discretion with respect to costs.

Counterclaim against additional parties (O. 15, r. 3).

3.—(1) Where a defendant to an action who makes a counterclaim against the plaintiff alleges that any other person (whether or not a party to the action) is liable to him along with the plaintiff in respect of the subject-matter of the counterclaim, or claims against such other person any relief relating to or connected with the original subject-matter of the action, then, subject to Rule 5 (2), he may join that other person as a party against whom the counterclaim is made.

(2) Where a defendant joins a person as a party against whom he makes a counterclaim, he must add that person's name to the title of the action and serve on him a copy of the counterclaim; and a person on whom a copy of a counterclaim is served under this paragraph shall, if he is not already a party to the action, become a party to it as from the time of service with the same rights in respect of his defence to the counterclaim and otherwise as if he had been duly sued in the ordinary way by the party making the counterclaim.

(3) A defendant who is required by paragraph (2) to serve a copy of the counterclaim made by him on any person who before service is already a party to the action must do so within the period within which, by virtue of Order 18, Rule 2, he must serve on the plaintiff the defence to which the counterclaim is added.

(4) Where by virtue of paragraph (2) a copy of a counterclaim is required to be served on a person who is not already a party to the action, the following provisions of these Rules, namely, Order 10 (except Rule 1 (4)), Orders 11 to 13 and Order 70, Rule 3, shall, subject to paragraph (3), apply in relation to the counterclaim and the proceedings arising from it as if —

(a) the counterclaim were a writ and the proceedings arising from it an action; and

(b) the party making the counterclaim were a plaintiff and the party against whom it is made a defendant in that action.

(5) A copy of a counterclaim required to be served on a person who is not already a party to the action must be indorsed with a notice, in Form 19, addressed to that person —

(a) stating the effect of Order 12, Rule 1, as applied by paragraph (4); and

(b) stating that he may enter an appearance in Form 20 and explaining how he may do so.

Joinder of parties (O. 15, r. 4).

4.—(1) Subject to Rule 5 (1), two or more persons may be joined together in one action as plaintiffs or as defendants with the leave of the Court or where —

(a) if separate actions were brought by or against each of them, as the case may be, some common question of law or fact would arise in all the actions; and

(b) all rights to relief claimed in the action (whether they are joint, several or alternative) are in respect of or arise out of the same transaction or series of transactions.

(2) Where the plaintiff in any action claims any relief to which any other person is entitled jointly with him, all persons so entitled must, subject to the provisions of any written law and unless the Court gives leave to the contrary, be parties to the action and any of them who does not consent to being joined as a plaintiff must, subject to any order made by the Court on an application for leave under this paragraph, be made a defendant.

This paragraph shall not apply to a probate action.

(3) Where relief is claimed in an action against a defendant who is jointly liable with some other person and also severally liable, that other person need not be made a defendant to the action; but where persons are jointly, but not severally, liable under a contract and relief is claimed against some but not all of those persons in an action in respect of that contract, the Court may, on the application of any defendant to the action, by order stay proceedings in the action until the other persons so liable are added as defendants.

Court may order separate trials, etc (O. 15, r. 5).

5.—(1) If claims in respect of two or more causes of action are included by a plaintiff in the same action or by a defendant in a counterclaim, or if two or more plaintiffs or defendants are parties to the same action, and it

appears to the Court that the joinder of causes of action or of parties, as the case may be, may embarrass or delay the trial or is otherwise inconvenient, the Court may order separate trials or make such other order as may be expedient.

(2) If it appears on the application of any party against whom a counterclaim is made that the subject-matter of the counterclaim ought for any reason to be disposed of by a separate action, the Court may order the counterclaim to be struck out or may order it to be tried separately or make such other order as may be expedient.

Misjoinder and nonjoinder of parties (O. 15, r. 6).

6.—(1) No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of any party; and the Court may in any cause or matter determine the issues or questions in dispute so far as they affect the rights and interests of the persons who are parties to the cause or matter.

(2) Subject to the provisions of this Rule, at any stage of the proceedings in any cause or matter, the Court may, on such terms as it thinks just and either of its own motion or on application —

- (a) order any person who has been improperly or unnecessarily made a party or who has for any reason ceased to be a proper or necessary party, to cease to be a party;
- (b) order any or the following persons to be added as a party, namely:
 - (i) any person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all matters in the cause or matter may be effectually and completely determined and adjudicated upon; or
 - (ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the Court it would be just and convenient to determine as between him and that party as well as between the parties to the cause or matter.

(3) An application by any person for an order under paragraph (2) adding him as a party must, except with the leave of the Court, be supported by an affidavit showing his interest in the matters in dispute in the cause or matter or, as the case may be, the question or issue to be determined as between him and any party to the cause or matter.

(4) No person shall be added as a plaintiff without his consent signified in writing or in such other manner as may be authorised.

Proceedings against estates (O. 15, r. 6A).

6A.—(1) Where any person against whom an action would have lain has died but the cause of action survives, the action may, if no grant of probate or administration has been made, be brought against the estate of the deceased.

(2) Without prejudice to the generality of paragraph (1), an action brought against “the personal representatives of A.B. deceased” shall be treated, for the purposes of that paragraph, as having been brought against his estate.

(3) An action purporting to have been commenced against a person shall be treated, if he was dead at its commencement, as having been commenced against his estate in accordance with paragraph (1), whether or not a grant of probate or administration was made before its commencement.

(4) In any such action as is referred to in paragraph (1) or (3) —

(a) the plaintiff shall, during the period of validity for service of the writ or originating summons, apply to the Court for an order appointing a person to represent the deceased’s estate for the purpose of the proceedings or, if a grant of probate or administration has been made for an order that the personal representative of the deceased be made a party to the proceedings, and in either case for an order that the proceedings be carried on against the person appointed or, as the case may be, against the personal representative, as if he had been substituted for the estate;

(b) the Court may, at any stage of the proceedings and on such terms as it thinks just and either of its own motion or on application, make any such order as is mentioned in sub-paragraph (a) and allow such amendments (if any) to be made and make such other order as the Court thinks necessary in order to ensure that all matters in dispute in the proceedings may be effectually and completely determined and adjudicated upon.

(5) Before making an order under paragraph (4) the Court may require notice to be given to any insurer of the deceased who has an interest in the proceedings and to such (if any) of the persons having an interest in the estate as it thinks fit.

(6) Where an order is made under paragraph (4) appointing the Public Trustee to represent the deceased’s estate, the appointment shall be limited to his accepting service of the writ or originating summons by which the action was begun unless, either on making such an order or on a subsequent application, the Court, with the consent of the Public Trustee, directs that the appointment shall extend to taking further steps in the proceedings.

(7) Where an order is made under paragraph (4), Rules 7 (4) and 8 (3) and (4) shall apply as if the order had been made under Rule 7 on the application of the plaintiff.

(8) Where no grant of probate or administration has been made, any judgment or order given or made in the proceedings shall bind the estate to the same extent as it would have been bound if a grant had been made and a personal representative of the deceased had been a party to the proceedings.

Change of parties by reason of death, etc. (O. 15, r. 7).

7.—(1) Where a party to an action dies or becomes bankrupt but the cause of action survives, the action shall not abate by reason of the death or bankruptcy.

(2) Where at any stage of the proceedings in any cause or matter the interest or liability of any party is assigned or transmitted to or devolves upon some other person, the Court may, if it thinks it necessary in order to ensure that all matters in dispute in the cause or matter may be effectually and completely determined and adjudicated upon, order that other person to be made a party to the cause or matter and the proceedings to be carried on as if he had been substituted for the first-mentioned party. An application for an order under this paragraph may be made *ex parte*.

(3) An order may be made under this Rule for a person to be made a party to a cause or matter notwithstanding that he is already a party to it on the other side of the record, or on the same side but in a different capacity; but —

(a) if he is already a party on the other side, the order shall be treated as containing a direction that he shall cease to be a party on that other side; and

(b) if he is already a party on the same side but in another capacity, the order may contain a direction that he shall cease to be a party in that other capacity.

(4) The person on whose application an order is made under this Rule must procure the order to be noted in the cause book, and after the order has been so noted that person must, unless the Court otherwise directs, serve the order on every other person who is a party to the cause or matter or who becomes or ceases to be a party by virtue of the order and serve with the order on any person who becomes a defendant a copy of the writ or originating summons by which the cause or matter was begun.

(5) Any application to the Court by a person served with an order made *ex parte* under this Rule for the discharge or variation of the order must be made within 14 days after the service of the order on that person.

Provisions consequential on making of order under Rule 6 or 7 (O. 15, r. 8).

8.—(1) Where an order is made under Rule 6 the writ by which the action in question was begun must be amended accordingly and must be endorsed with —

- (a) a reference to the order in pursuance of which the amendment is made; and
- (b) the date on which the amendment is made,

and the amendment must be made within such period as may be specified in the order or, if no period is so specified, within 14 days after the making of the order.

(2) Where by an order under Rule 6 a person is to be made a defendant, the Rules as to service of a writ of summons shall apply accordingly to service of the amended writ on him, but before serving the writ on him the person on whose application the order was made must procure the order to be noted in the cause book.

(3) Where by an order under Rule 6 or 7 a person is to be made a defendant, the Rules as to entry of appearance shall apply accordingly to entry of appearance by him, subject, in the case of a person to be made a defendant by an order under Rule 7, to the modification that the time limited for appearing shall begin with the date on which the order is served on him under Rule 7 (4) or, if the order is not required to be served on him, with the date on which the order is noted in the cause book. The entry of appearance must be in Form 21.

(4) Where by an order under Rule 6 or 7 a person is to be added as a party or is to be made a party in substitution for some other party, that person shall not become a party until —

- (a) where the order is made under Rule 6, the writ has been amended in relation to him under this Rule and (if he is a defendant) has been served on him; or
- (b) where the order is made under Rule 7, the order has been served on him under Rule 7 (4) or, if the order is not required to be served on him, the order has been noted in the cause book,

and where by virtue of the foregoing provision a person becomes a party in substitution for some other party, all things done in the course of the proceedings before the making of the order shall have effect in relation to the new party as they had in relation to the old, except that entry of appearance by the old party shall not dispense with entry of appearance by the new party in Form 21.

(5) Paragraphs (1) to (4) shall apply in relation to an action begun by originating summons as they apply in relation to an action begun by writ.

Failure to proceed after death of party (O. 15, r. 9).

9.—(1) If after the death of a plaintiff or defendant in any action the cause of action survives, but no order under Rule 7 is made substituting as plaintiff any person in whom the cause of action vests or, as the case may be, the personal representatives of the deceased defendant, the defendant or, as the case may be, those representatives may apply to the Court for an order that unless the action is proceeded with within such time as may be specified in the order the action shall be struck out as against the plaintiff or defendant, as the case may be, who has died; but where it is the plaintiff who has died, the Court shall not make an order under this Rule unless satisfied that due notice of the application has been given to the personal representatives (if any) of the deceased plaintiff and to any other interested persons who, in the opinion of the Court, shall be notified.

(2) Where in any action a counterclaim is made by a defendant, this Rule shall apply in relation to the counterclaim as if the counterclaim were a separate action and as if the defendant making the counterclaim were the plaintiff and the person against whom it is made a defendant.

Actions for possession of immovable property (O. 15, r. 10).

10.—(1) Without prejudice to Rule 6, the Court may at any stage of the proceedings in an action for possession of immovable property order any person not a party to the action who is in possession of the immovable property (whether in actual possession or by a tenant) to be added as a defendant.

(2) An application by any person for an order under this Rule may be made by summons ex-parte, supported by an affidavit showing that he is in possession of the immovable property in question and if by a tenant, naming him.

(3) A person added as a defendant by an order under this Rule must serve a copy of the order on the plaintiff and must enter an appearance in the action within such period, if any, as may be specified in the order or, if no period is so specified, within 7 days after the making of the order, and the Rules as to entry of appearance shall apply accordingly to entry of appearance by him.

Relator actions (O. 15, r. 11).

11. Before the name of any person is used in any action as a relator, that person must give a written authorisation so to use his name to his solicitor and the authorisation must be filed in the Registry.

Representative proceedings (O. 15, r. 12).

12.—(1) Where numerous persons have the same interest in any proceedings, not being such proceedings as are mentioned in Rule 13, the proceedings may be begun, and, unless the Court otherwise orders, continued, by or against any one or more of them as representing all or as representing all except one or more of them.

(2) At any stage of the proceedings under this Rule the Court may, on the application of the plaintiff, and on such terms, if any, as it thinks fit, appoint any one or more of the defendants or other persons as representing whom the defendants are sued to represent all, or all except one or more, of those persons in the proceedings; and where, in exercise of the power conferred by this paragraph, the Court appoints a person not named as a defendant, it shall make an order under Rule 6 adding that person as a defendant.

(3) A judgment or order given in proceedings under this Rule shall be binding on all the persons as representing whom the plaintiffs sue or, as the case may be, the defendants are sued, but shall not be enforced against any person not a party to the proceedings except with the leave of the Court.

(4) An application for the grant of leave under paragraph (3) must be made by summons which must be served personally on the person against whom it is sought to enforce the judgment or order.

(5) Notwithstanding that a judgment or order to which any such application relates is binding on the person against whom the application is made, that person may dispute liability to have the judgment or order enforced against him on the ground that by reason of facts and matters particular to his case he is entitled to be exempted from such liability.

(6) The Court hearing an application for the grant of leave under paragraph (3) may order the question whether the judgment or order is enforceable against the person against whom the application is made to be tried and determined in any manner in which any issue or question in an action may be tried and determined.

Representation of interested persons who cannot be ascertained, etc. (O. 15, r. 13).

13.—(1) In any proceedings concerning —

- (a) the administration of the estate of a deceased person;
- (b) property subject to a trust; or
- (c) the construction of a written instrument, including a statute,

the Court, if satisfied that it is expedient to do so, and that one or more of the conditions specified in paragraph (2) are satisfied, may appoint one or more persons to represent any person (including an unborn person) or class

who is or may be interested (whether presently or for any future, contingent or unascertained interest) in or affected by the proceedings.

(2) The conditions for the exercise of the power conferred by paragraph (1) are as follows:

- (a) that the person, the class or some member of the class, cannot be ascertained or cannot readily be ascertained;
- (b) that the person, the class or some member of the class, though ascertained, cannot be found;
- (c) that, though the person or the class and the members thereof can be ascertained and found, it appears to the Court expedient (regard being had to all the circumstances, including the amount at stake and the degree of difficulty of the point to be determined) to exercise the power for the purpose of saving expense.

(3) Where in any proceedings to which paragraph (1) applies, the Court exercises the power conferred by that paragraph, a judgment or order of the Court given or made when the person or persons appointed in exercise of that power are before the Court shall be binding on the person or the class represented by the person or persons so appointed.

(4) Where, in any such proceedings, a compromise is proposed and some of the persons who are interested in, or who may be affected by, the compromise are not parties to the proceedings (including unborn or unascertained persons) but —

- (a) there is some other person in the same interest before the Court who assents to the compromise or on whose behalf the Court sanctions the compromise; or
- (b) the absent persons are represented by a person appointed under paragraph (1) who so assents,

the Court, if satisfied that the compromise will be for the benefit of the absent persons and that it is expedient to exercise this power, may approve the compromise and order that it shall be binding on the absent persons, and they shall be bound accordingly except where the order has been obtained by fraud or non-disclosure of material facts.

Notice of action to non-parties (O. 15, r. 13A).

13A.—(1) At any stage in an action to which this rule applies, the Court may, on the application of any party or of its own motion, direct that notice of the action be served on any person who is not a party thereto but who will or may be affected by any judgment given therein.

(2) An application under this rule may be made *ex parte* and shall be supported by an affidavit stating the grounds of the application.

(3) Every notice of an action under this rule shall be in Form 21A, and the copy to be served shall be a sealed copy accompanied by a copy of the originating summons or writ and of all other pleadings served in the action.

(4) A person may, within 8 days of service on him of a notice under this rule, enter an appearance and shall thereupon become a party to the action, but in default of such appearance and subject to paragraph (5) he shall be bound by any judgment given in the action as if he were a party thereto.

(5) If at any time after service of such notice on any person the writ or originating summons is amended so as substantially to alter the relief claimed, the Court may direct that the judgment shall not bind such person unless a summons is issued and served upon him under this rule.

(6) This rule applies to any action relating to:

- (a) the estate of a deceased person; or
- (b) property subject to a trust.

(7) Order 6, rule 3 (2) shall apply in relation to a notice of an action under this rule as if the notice were a writ and the person by whom the notice is issued were the plaintiff.

Representation of beneficiaries by trustees, etc. (O. 15, r. 14).

14.—(1) Any proceedings, including proceedings to enforce a security by foreclosure or otherwise, may be brought by or against trustees, executors or administrators in their capacity as such without joining any of the persons having a beneficial interest in the trust or estate, as the case may be; and any judgment or order given or made in those proceedings shall be binding on those persons unless the Court in the same or other proceedings otherwise orders on the ground that the trustees, executors or administrators, as the case may be, could not or did not in fact represent the interests of those persons in the first-mentioned proceedings.

(2) Paragraph (1) is without prejudice to the power of the Court to order any person having such an interest to be made a party to the proceedings or to make an order under Rule 13.

Representation of deceased person interested in proceedings (O. 15, r. 15).

15.—(1) Where in any proceedings it appears to the Court that a deceased person was interested in the matter in question in the proceedings and that he has no personal representative, the Court may, on the application of any party to the proceedings, proceed in the absence of a person representing the estate of the deceased person or may by order appoint a person to represent that estate for the purposes of the proceedings; and any such order, and any judgment or order subsequently given or made in the proceedings, shall bind the estate of the deceased person to the same extent

as it would have been bound had a personal representative of that person been a party to the proceedings.

(2) Before making an order under this Rule, the Court may require notice of the application for the order to be given to such (if any) of the persons having an interest in the estate as it thinks fit.

Declaratory judgment (O. 15, r. 16).

16. No action or other proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether or not any consequential relief is or could be claimed.

Conduct of proceedings (O. 15, r. 17).

17. The Court may give the conduct of any action, inquiry or other proceeding to such person as it thinks fit.

ORDER 16

THIRD PARTY AND SIMILAR PROCEEDINGS

Third party notice (O. 16, r. 1).

1.—(1) Where in any action a defendant who has entered an appearance —

- (a) claims against a person not already a party to the action any contribution or indemnity;
- (b) claims against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or
- (c) requires that any question or issue relating to or connected with the original subject-matter of the action should be determined not only as between the plaintiff and the defendant but also as between either or both of them and a person not already a party to the action,

then, subject to paragraph (2), the defendant may issue a notice in Form 22 or 23, whichever is appropriate (referred to in this Order as a third party notice), containing a statement of the nature of the claim made against him and, as the case may be, either of the nature and grounds of the claim made by him or of the question or issue required to be determined.

(2) A defendant to an action may not issue a third party notice without the leave of the Court unless the action was begun by writ and he issues the notice before serving his defence on the plaintiff.

(3) Where a third party notice is served on the person against whom it is issued, he shall as from the time of service be a party to the action (referred to in this Order as a third party) with the same rights in respect of his defence against any claim made against him in the notice and otherwise as if he had been duly sued in the ordinary way by the defendant by whom the notice is issued.

Application for leave to issue third party notice (O. 16, r. 2).

2.—(1) Application for leave to issue a third party notice may be made by ex parte summons in Form 24 but the Court may direct the summons to be served.

(2) An application for leave to issue a third party notice must be supported by an affidavit stating —

- (a) the nature of the claim made by the plaintiff in the action;
- (b) the stage which proceedings in the action have reached;
- (c) the nature of the claim made by the applicant or particulars of the question or issue required to be determined, as the case may be, and the facts on which the proposed third party notice is based; and
- (d) the name and address of the person against whom the third party notice is to be issued.

Issue and service of, and entry of appearance to third party notice (O. 16, r. 3).

3.—(1) The order granting leave to issue a third party notice may contain directions as to the period within which the notice is to be issued.

(2) There must be served with every third party notice a copy of the writ or originating summons by which the action was begun and of the pleadings (if any) served in the action.

(3) Subject to paragraphs (1) and (2), the following provisions of these Rules, namely, Order 6, Rule 3 (2), Order 10 (except Rule 1 (4)), Order 11 and Order 12, shall apply in relation to a third party notice and to the proceedings begun thereby as if —

- (a) the third party notice were a writ and the proceedings begun thereby an action; and
- (b) the defendant issuing the third party notice were a plaintiff and the person against whom it is issued a defendant in that action.

Third party directions (O. 16, r. 4).

4.—(1) If the third party enters an appearance in Form 25, the defendant who issued third party notice must, by summons in Form 26 to be served on all the other parties to the action, apply to the Court for directions.

(2) If no summons is served on the third party under paragraph (1), the third party may, not earlier than 7 days after entering an appearance, by summons in Form 26 to be served on all the other parties to the action, apply to the Court for directions or for an order to set aside the third party notice.

(3) On an application for directions under this Rule the Court may —

- (a) if the liability of the third party to the defendant who issued the third party notice is established on the hearing, order such judgment as the nature of the case may require to be entered against the third party in favour of the defendant;
- (b) order any claim, question or issue stated in the third party notice to be tried in such manner as the Court may direct; or
- (c) dismiss the application and terminate the proceedings on the third party notice; and may do so either before or after any judgment in the action has been signed by the plaintiff against the defendant.

(4) On an application for directions under this Rule the Court may give the third party leave to defend the action, either alone or jointly with any defendant, upon such terms as may be just, or to appear at the trial and to take such part therein as may be just, and generally may make such orders and give such directions as appear to the Court proper for having the rights and liabilities of the parties most conveniently determined and enforced and as to the extent to which the third party is to be bound by any judgment or decision in the action.

(5) Any order made or direction given under this Rule must be in Form 27 and may be varied or rescinded by the Court at any time.

Default of third party, etc (O. 16, r. 5).

5.—(1) If a third party does not enter an appearance or, having been ordered to serve a defence, fails to do so —

- (a) he shall be deemed to admit any claim stated in the third party notice and shall be bound by any judgment (including judgment by consent) or decision in the action in so far as it is relevant to any claim, question or issue stated in that notice; and

(b) the defendant by whom the third party notice was issued may, if judgment in default is given against him in the action, at any time after satisfaction of that judgment and, with the leave of the Court, before satisfaction thereof, enter judgment against the third party in respect of any contribution or indemnity claimed in the notice, and, with the leave of the Court, in respect of any other relief or remedy claimed therein.

(2) If a third party or the defendant by whom a third party notice was issued makes default in serving any pleading which he is ordered to serve, the Court may, on the application by summons of that defendant or the third party, as the case may be, order such judgment to be entered for the applicant as he is entitled to on the pleadings or may make such other order as may appear to the Court necessary to do justice between the parties.

(3) The Court may at any time set aside or vary a judgment entered under paragraph (1) (b) or paragraph (2) on such terms (if any) as it thinks just.

Setting aside third party proceedings (O. 16, r. 6).

6. Proceedings on a third party notice may, at any stage of the proceedings, be set aside by the Court.

Judgment between defendant and third party (O. 16, r. 7).

7.—(1) Where in any action a defendant has served a third party notice, the Court may at or after the trial of the action, or, if the action is decided otherwise than by trial, on an application by summons or motion, order such judgment as the nature of the case may require to be entered for the defendant against the third party or for the third party against the defendant.

(2) Where in an action judgment is given against a defendant and judgment is given for the defendant against a third party, execution shall not issue against the third party without the leave of the Court until the judgment against the defendant has been satisfied.

Claims and issues between a defendant and some other party (O. 16, r. 8).

8.—(1) Where in any action a defendant who has entered an appearance —

(a) claims against a person who is already a party to the action any contribution or indemnity;

(b) claims against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or

- (c) requires that any question or issue relating to or connected with the original subject-matter of the action should be determined not only as between the plaintiff and himself but also as between either or both of them and some other person who is already a party to the action,

then, subject to paragraph (2), the defendant may, without leave, issue and serve on that person a notice containing a statement of the nature and grounds of his claim or, as the case may be, of the question or issue required to be determined.

(2) Where a defendant makes such a claim as is mentioned in paragraph (1) and that claim could be made by him by counterclaim in the action, paragraph (1) shall not apply in relation to the claim.

(3) No appearance to such a notice shall be necessary if the person on whom it is served has entered an appearance in the action or is a plaintiff therein, and the same procedure shall be adopted for the determination between the defendant by whom, and the person on whom, such a notice is served of the claim, question or issue stated in the notice as would be appropriate under this Order if the person served with the notice were a third party and (where he has entered an appearance in the action or is a plaintiff) had entered an appearance to the notice.

(4) Rule 4 (2) shall have effect in relation to proceedings on a notice issued under this Rule as if for the words “7 days after entering an appearance” there were substituted the words “14 days after service of the notice on him”.

Claims by third and subsequent parties (O. 16, r. 9).

9.—(1) Where a defendant has served a third party notice and the third party makes such a claim or requirement as is mentioned in Rule 1 or Rule 8, this Order shall, with the modification mentioned in paragraph (2) and any other necessary modifications, apply as if the third party were a defendant; and similarly where any further person to whom by virtue of this Rule this Order applies as if he were a third party makes such a claim or requirement.

(2) The modification referred to in paragraph (1) is that paragraph (3) shall have effect in relation to the issue of a notice under Rule 1 by a third party in substitution for Rule 1 (2).

(3) A third party may not issue a notice under Rule 1 without the leave of the Court unless the action in question was begun by writ and he issues the notice before the expiration of 14 days after the time limited for appearing to the notice issued against him.

Offer of contribution (O. 16, r. 10).

10. [Note: deleted by S 278/93 and S 279/93]

Counterclaim by defendant (O. 16, r. 11).

11. Where in any action a counterclaim is made by a defendant, Rules 1 to 9 shall apply in relation to the counterclaim as if the subject-matter of the counterclaim were the original subject-matter of the action, and as if the person making the counterclaim were the plaintiff and the person against whom it is made a defendant.

ORDER 17**INTERPLEADER****Entitlement to relief by way of interpleader (O. 17, r. 1).**

1. Where —

- (a) the person seeking relief is under liability for any debt, money or goods or chattels, for or in respect of which he has been or expects to be, sued by two or more parties making adverse claims thereon; or
- (b) the Sheriff or other officer of the Court is charged with the execution of process of the Court, and claim is made to any money or goods or chattels taken or intended to be taken in execution under any process, or to the proceeds or value of any such goods or chattels by any person other than the person against whom the process is issued, and to order the sale of any property subject to interpleader proceedings,

the person under liability or (subject to Rule 2) the Sheriff, may apply to the Court for relief by way of interpleader.

Claim to goods, etc., taken in execution (O. 17, r. 2).

2.—(1) Any person making a claim to or in respect of any money, goods or other movable property taken or intended to be taken in execution under process of the Court, or to the proceeds or value of any such goods or property, must give notice of his claim in Form 28 to the Sheriff charged with the execution of the process and must include in his notice a statement of his address, and that address shall be his address for service.

(2) On receipt of a claim made under this Rule the Sheriff must forthwith give notice thereof in Form 29 to the execution creditor and the execution creditor must, within 4 days after receiving the notice, give notice in Form 30 to the Sheriff informing him whether he admits or disputes the claim. An execution creditor who gives notice in accordance with this paragraph admitting a claim shall only be liable to the Sheriff for any fees and expenses incurred by the Sheriff before receipt of that notice.

(3) Where —

(a) the Sheriff receives a notice from an execution creditor under paragraph (2) disputing a claim, or the execution creditor fails, within the period mentioned in that paragraph, to give the required notice; and

(b) the claim under this Rule is not withdrawn,

the Sheriff may apply to the Court for relief under this Order.

(4) The Sheriff who receives a notice from an execution creditor under paragraph (2) admitting a claim under this Rule shall withdraw from possession of the money, goods or other movable property claimed.

Mode of application (O. 17, r. 3).

3.—(1) An application for relief under this Order must be made by originating summons unless made in a pending action, in which case it must be made by summons in the action in Form 31 or 32 whichever is appropriate.

(2) No appearance need be entered to an originating summons under this Rule.

(3) Subject to paragraph (4), a summons under this Rule must be supported by evidence that the applicant —

(a) claims no interest in the subject-matter in dispute other than for charges or costs;

(b) does not collude with any of the claimants to that subject-matter; and

(c) is willing to pay or transfer that subject-matter into Court or to dispose of it as the Court may direct.

(4) Where the applicant is the Sheriff, he shall not provide such evidence as is referred to in paragraph (3) unless directed by the Court to do so.

Service of summons (O. 17, r. 4).

4.—(1) Unless the Court otherwise orders, the originating summons or an interpleader summons ordered under Rule 3 must be served personally at least 7 days before the return day.

(2) An interpleader summons must be in one of the forms in Form 33.

Powers of Court hearing summons (O. 17, r. 5).

5.—(1) Where on the hearing of a summons under this Order all the persons by whom adverse claims to the subject-matter in dispute (referred to in this Order as the claimants) appear, the Court may order —

- (a) that any claimant be made a defendant in any action pending with respect to the subject-matter in dispute in substitution for or in addition to the applicant for relief under this Order; or
- (b) that an issue between the claimants be stated and tried and may direct which of the claimants is to be plaintiff and which defendant.

(2) Where —

- (a) the applicant on a summons under this Order is the Sheriff;
- (b) all the claimants consent or any of them so requests; or
- (c) the question at issue between the claimants is a question of law and the facts are not in dispute,

the Court may summarily determine the question at issue between the claimants and make an order accordingly on such terms as may be just.

(3) Where a claimant, having been duly served with a summons for relief under this Order, does not appear on the hearing of the summons or, having appeared, fails or refuses to comply with an order made in the proceedings, the Court may make an order declaring the claimant, and all persons claiming under him, for ever barred from prosecuting his claim against the applicant for such relief and all persons claiming under him, but such an order shall not affect the rights of the claimants as between themselves.

Power to order sale of goods taken in execution (O. 17, r. 6).

6. Where an application for relief under this Order is made by the Sheriff who has taken possession of any goods or other movable property in execution under any process, and a claimant alleges that he is entitled, under a bill of sale or otherwise, to the goods or property by way of security for debt, the Court may order those goods or property or any part thereof to be sold and may direct that the proceeds of sale be applied in such manner and on such terms as may be just and as may be specified in the order.

Power to stay proceedings (O. 17, r. 7).

7. Where a defendant to an action applies for relief under this Order in the action, the Court may by order stay all further proceedings in the action.

Other powers (O. 17, r. 8).

8. Subject to Rules 1 to 7, the Court may in or for the purposes of any interpleader proceedings make such order as to costs or any other matter as it thinks just.

One order in several causes or matters (O. 17, r. 9).

9. Where the Court considers it necessary or expedient to make an order in any interpleader proceedings in several causes or matters pending before different Judges, the Court may make such an order; and the order shall be entitled in all those causes or matters and shall be binding on all the parties to them.

Discovery (O. 17, r. 10).

10. Orders 24, 26 and 26A shall, with the necessary modifications, apply in relation to an interpleader issue as they apply in relation to any other cause or matter.

Trial of interpleader issue (O. 17, r. 11).

11.—(1) Order 35 shall, with the necessary modifications, apply to the trial of an interpleader issue as it applies to the trial of an action.

(2) The Court by whom an interpleader issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the interpleader proceedings.

(3) The judgment must be in one of the forms in Form 34.

ORDER 18**PLEADINGS****Service of statement of claim (O. 18, r. 1).**

1. Unless the Court gives leave to the contrary or a statement of claim is endorsed on the writ, the plaintiff must serve a statement of claim on the defendant or, if there are two or more defendants, on each defendant, and must do so either when the writ is served on that defendant or at any time after service of the writ but before the expiration of 14 days after that defendant enters an appearance.

Service of defence (O. 18, r. 2).

2.—(1) Subject to paragraph (2), a defendant who enters an appearance in, and intends to defend, an action must, unless the Court gives leave to the contrary, serve a defence on the plaintiff before the expiration of 14 days after the time limited for appearing or after the statement of claim is served on him, whichever is the later.

(2) If a summons under Order 14, Rule 1, is served on a defendant before he serves his defence, paragraph (1) shall not have effect in relation to him unless by the order made on the summons he is given leave to defend the action and, in that case, shall have effect as if it required him to serve his defence within 14 days after the making of the order or within such other period as may be specified therein.

Service of reply and defence to counterclaim (O. 18, r. 3).

3.—(1) A plaintiff on whom a defendant serves a defence must serve a reply on that defendant if it is needed for compliance with Rule 8; and if no reply is served, Rule 14 (1) will apply.

(2) A plaintiff on whom a defendant serves a counterclaim must, if he intends to defend it, serve on that defendant a defence to counterclaim.

(3) Where a plaintiff serves both a reply and a defence to counterclaim on any defendant, he must include them in the same document.

(4) A reply to any defence must be served by the plaintiff before the expiration of 14 days after the service on him of that defence, and a defence to counterclaim must be served by the plaintiff before the expiration of 14 days after the service on him of the counterclaim to which it relates.

Pleadings subsequent to reply (O. 18, r. 4).

4. No pleading subsequent to a reply or a defence to counterclaim shall be served except with the leave of the Court.

Service of pleadings during court vacation (O. 18, r. 5).

5. [Deleted]

Pleadings: Formal requirements (O. 18, r. 6).

6.—(1) Every pleading in an action must bear on its face —

- (a) the year in which the writ in the action was issued and the number of the action;
- (b) the title of the action; and
- (c) the description of the pleading.

(2) Every pleading must, if necessary, be divided into paragraphs numbered consecutively, each allegation being so far as convenient contained in a separate paragraph.

(3) Dates, sums and other numbers must be expressed in a pleading in figures and not in words.

(4) Every pleading of a party must be endorsed —

- (a) where the party sues or defends in person, with his name and address;

(b) in any other case, with the name or firm and business address of the solicitor by whom it was served.

(5) Every pleading of a party must be signed by the party's solicitor or by the party, if he sues or defends in person.

Facts, not evidence, to be pleaded (O. 18, r. 7).

7.—(1) Subject to this Rule and Rules 10, 11 and 12, every pleading must contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which those facts are to be proved, and the statement must be as brief as the nature of the case admits.

(2) Without prejudice to paragraph (1), the effect of any document or the purport of any conversation referred to in the pleading must, if material, be briefly stated, and the precise words of the document or conversation shall not be stated, except in so far as those words are themselves material.

(3) A party need not plead any fact if it is presumed by law to be true or the burden of disproving it lies on the other party, unless the other party has specifically denied it in his pleading.

(4) A statement that a thing has been done or that an event has occurred, being a thing or event the doing or occurrence of which, as the case may be, constitutes a condition precedent necessary for the case of a party is to be implied in his pleading.

Matters which must be specifically pleaded (O. 18, r. 8).

8.—(1) A party must in any pleading subsequent to a statement of claim plead specifically any matter, for example, performance, release, any relevant statute of limitation, fraud or any fact showing illegality —

- (a) which he alleges makes any claim or defence of the opposite party not maintainable;
- (b) which, if not specifically pleaded, might take the opposite party by surprise; or
- (c) which raises issues of fact not arising out of the preceding pleading.

(2) Without prejudice to paragraph (1), a defendant to an action for the recovery of immovable property must plead specifically every ground of defence on which he relies, and a plea that he is in possession of the immovable property by himself or his tenant is not sufficient.

Matter may be pleaded whenever arising (O. 18, r. 9).

9. Subject to Rules 7 (1), 10 and 15 (2), a party may in any pleading plead any matter which has arisen at any time, whether before or since the issue of the writ.

Departure (O. 18, r. 10).

10.—(1) A party shall not in any pleading make an allegation of fact, or raise any new ground or claim, inconsistent with a previous pleading of his.

(2) Paragraph (1) shall not be taken as prejudicing the right of a party to amend, or apply for leave to amend, his previous pleading so as to plead the allegations or claims in the alternative.

Points of law may be pleaded (O. 18, r. 11).

11. A party may by his pleading raise any point of law.

Particulars of pleading (O. 18, r. 12).

12.—(1) Subject to paragraph (2), every pleading must contain the necessary particulars of any claim, defence or other matter pleaded including, without prejudice to the generality of the foregoing words —

- (a) particulars of any misrepresentation, fraud, breach of trust, wilful default or undue influence on which the party pleading relies; and
- (b) where a party pleading alleges any condition of the mind of any person, whether any disorder or disability of mind or any malice, fraudulent intention or other condition of mind except knowledge, particulars of the facts on which the party relies.

(1A) Subject to paragraph (1B), a plaintiff in an action for personal injuries shall serve with his statement of claim —

- (a) a medical report; and
- (b) a statement of the special damages claimed.

(1B) Where the documents to which paragraph (1A) applies are not served with the statement of claim, the Court may —

- (a) specify the period of the time within which they are to be provided; or
- (b) make such other order as it thinks fit (including an order dispensing with the requirements of paragraph (1A) or staying the proceedings).

(1C) For the purposes of this Rule —

“medical report” means a report substantiating all the personal injuries alleged in the statement of claim which the plaintiff proposes to adduce in evidence as part of his case at the trial;

“a statement of the special damages claimed” means a statement giving full particulars of the special damages claimed for expenses and losses already incurred and an estimate of any future expenses and losses (including loss of earnings, loss of Central Provident Fund contributions and loss of pension rights).

(2) Where it is necessary to give particulars of debt, expenses or damages and those particulars exceed 3 folios, they must be set out in a separate document referred to in the pleading and the pleading must state whether the document has already been served and, if so, when, or is to be served with the pleading.

(3) The Court may order a party to serve on any other party particulars of any claim, defence or other matter stated in his pleading, or in any affidavit of his ordered to stand as a pleading, or a statement of the nature of the case on which he relies, and the order may be made on such terms as the Court thinks just.

(4) Where a party alleges as a fact that a person had knowledge or notice of some fact, matter or thing, then, without prejudice to the generality of paragraph (3), the Court may, on such terms as it thinks just, order that party to serve on any other party —

(a) where he alleges knowledge, particulars of the facts on which he relies; and

(b) where he alleges notice, particulars of the notice.

(5) An order under this Rule shall not be made before service of the defence unless, in the opinion of the Court, the order is necessary or desirable to enable the defendant to plead or for some other special reason.

(6) Where the applicant for an order under this Rule did not apply by letter for the particulars he requires, the Court may refuse to make the order unless of opinion that there were sufficient reasons for an application by letter not having been made.

(7) The particulars requested or ordered and supplied must be served in accordance with Form 35.

Admissions and denials (O. 18, r. 13).

13.—(1) Subject to paragraph (4), any allegation of fact made by a party in his pleading is deemed to be admitted by the opposite party unless it is traversed by that party in his pleading or a joinder of issue under Rule 14 operates as a denial of it.

(2) A traverse may be made either by a denial or by a statement of non-admission and either expressly or by necessary implication.

(3) Subject to paragraph (4), every allegation of fact made in a statement of claim or counterclaim which the party on whom it is served does not intend to admit must be specifically traversed by him in his defence or

defence to counterclaim, as the case may be; and a general denial of such allegations, or a general statement of non-admission of them, is not a sufficient traverse of them.

(4) Any allegation that a party has suffered damage and any allegation as to the amount of damages is deemed to be traversed unless specifically admitted.

Denial by joinder of issue (O. 18, r. 14).

14.—(1) If there is no reply to a defence, there is an implied joinder of issue on that defence.

(2) Subject to paragraph (3) —

(a) there is at the close of pleadings an implied joinder of issue on the pleading last served; and

(b) a party may in his pleading expressly join issue on the next preceding pleading.

(3) There can be no joinder of issue, implied or express, on a statement of claim or counterclaim.

(4) A joinder of issue operates as a denial of every material allegation of fact made in the pleading on which there is an implied or express joinder of issue unless, in the case of an express joinder of issue, any such allegation is excepted from the joinder and is stated to be admitted, in which case the express joinder of issue operates as a denial of every other such allegation.

Statement of claim (O. 18, r. 15).

15.—(1) A statement of claim must state specifically the relief or remedy which the plaintiff claims; but costs need not be specifically claimed.

(2) A statement of claim must not contain any allegation or claim in respect of a cause of action unless that cause of action is mentioned in the writ or arises from facts which are the same as, or include or form part of, facts giving rise to a cause of action so mentioned; but, subject to that, a plaintiff may in his statement of claim alter, modify or extend any claim made by him in the endorsement of the writ without amending the endorsement.

Defence of tender (O. 18, r. 16).

16. Where in any action a defence of tender before action is pleaded, the defendant must pay into Court in accordance with Order 22 the amount alleged to have been tendered, and the tender shall not be available as a defence unless payment into Court has been made.

Defence of set-off (O. 18, r. 17).

17. Where a claim by a defendant to a sum of money (whether of an ascertained amount or not) is relied on as a defence to the whole or part of a claim made by the plaintiff, it may be included in the defence and set-off against the plaintiff's claim, whether or not it is also added as a counterclaim.

Counterclaim and defence to counterclaim (O. 18, r. 18).

18. Without prejudice to the general application of this Order to a counterclaim and a defence to counterclaim or to any provision thereof which applies to either of those pleadings specifically —

- (a) Rules 12 (1A), (1B) and (1C) and 15 (1) shall apply to a counterclaim as if the counterclaim were a statement of claim and the defendant making it a plaintiff;
- (b) Rules 8 (2), 16 and 17 shall, with the necessary modifications, apply to a defence to counterclaim as they apply to a defence.

Striking out pleadings and endorsements (O. 18, r. 19).

19.—(1) The Court may at any stage of the proceedings order to be struck out or amended any pleading or the endorsement of any writ in the action, or anything in any pleading or in the endorsement, on the ground that —

- (a) it discloses no reasonable cause of action or defence, as the case may be;
- (b) it is scandalous, frivolous or vexatious;
- (c) it may prejudice, embarrass or delay the fair trial of the action; or
- (d) it is otherwise an abuse of the process of the Court,

and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

(2) No evidence shall be admissible on an application under paragraph (1) (a).

(3) This Rule shall, so far as applicable, apply to an originating summons and a petition as if the summons or petition, as the case may be, were a pleading.

Close of pleadings (O. 18, r. 20).

20.—(1) The pleadings in an action are deemed to be closed —

- (a) at the expiration of 14 days after service of the reply or, if there is no reply but only a defence to counterclaim, after service of the defence to counterclaim; or

(b) if neither a reply nor a defence to counterclaim is served, at the expiration of 14 days after service of the defence.

(2) The pleadings in an action are deemed to be closed at the time provided by paragraph (1) notwithstanding that any request or order for particulars has been made but has not been complied with at that time.

Filing of pleadings (O. 18, r. 21).

21. Every pleading must be filed in the Registry.

Trial without pleadings (O. 18, r. 22).

22.—(1) Where in an action to which this Rule applies any defendant has entered an appearance in the action, the plaintiff or that defendant may apply to the Court by summons for an order that the action shall be tried without pleadings or further pleadings, as the case may be.

(2) If, on the hearing of an application under this Rule, the Court is satisfied that the issues in dispute between the parties can be defined without pleadings or further pleadings, or that for any other reason the action can properly be tried without pleadings or further pleadings, as the case may be, the Court shall order the action to be so tried, and may direct the parties to prepare a statement of the issues in dispute or, if the parties are unable to agree to such a statement, may settle the statement itself.

(3) Where the Court makes an order under paragraph (2) or where it dismisses an application for such an order, it may give such directions as to the further conduct of the action as may be appropriate, and Order 25, Rules 2 to 7 shall, with the omission of so much of Rule 7 (1) as requires parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application under this Rule were a summons for directions.

(4) [Deleted by G.N. No. S 281/91]

Saving for defence under Merchant Shipping Act 1995 (O. 18, r. 23).

23. Nothing in Order 70, Rules 36 to 39, shall be taken as limiting the right of any shipowner or other person to rely by way of defence on any provision of the Merchant Shipping Act 1995 (Act 19 of 1995) which limits the amount of the liability in connection with a ship or other property.

ORDER 19

DEFAULT OF PLEADINGS

Default in service of statement of claim (O. 19, r. 1).

1. Where the plaintiff is required by these Rules to serve a statement of claim on a defendant and he fails to serve it on him, the defendant may, after the expiration of the period fixed under these Rules for service of the statement of claim, apply to the Court for an order to dismiss the action, and the Court may by order dismiss the action or make such other order on such terms as it thinks just.

Default of defence: Claim for liquidated demand (O. 19, r. 2).

2.—(1) Where the plaintiff's claim against a defendant is for a liquidated demand only, then, if that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence, enter final judgment against that defendant for a sum not exceeding that claimed by the writ in respect of the demand and for costs, and proceed with the action against the other defendants, if any.

(2) Order 13, Rule 1 (2) shall apply for the purposes of this Rule as it applies for the purposes of that Rule.

Default of defence: Claim for unliquidated damages (O. 19, r. 3).

3. Where the plaintiff's claim against a defendant is for unliquidated damages only, then, if that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence, enter interlocutory judgment against that defendant for damages to be assessed and costs, and proceed with the action against the other defendants, if any.

Default of defence: Claim in detinue (O. 19, r. 4).

4. Where the plaintiff's claim against a defendant relates to the detention of movable property only, then, if that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence, enter either —

- (a) interlocutory judgment against that defendant for the delivery of the property or their value to be assessed and costs; or
- (b) interlocutory judgment for the value of the property to be assessed and costs,

and proceed with the action against the other defendants, if any.

Default of defence: Claim for possession of immovable property (O. 19, r. 5).

5.—(1) Where the plaintiff's claim against a defendant is for possession of immovable property only, then, if that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence, and on producing a certificate by his solicitor, or (if he sues in person) an affidavit, stating that he is not claiming any relief in the action of the nature specified in Order 83, Rule 1, enter judgment for possession of the immovable property as against that defendant and for costs, and proceed with the action against the other defendants, if any.

(2) Where there is more than one defendant, judgment entered under this Rule shall not be enforced against any defendant unless judgment for possession of the immovable property has been entered against all the defendants.

Default of defence: Mixed claim (O. 19, r. 6).

6. Where the plaintiff makes against a defendant two or more of the claims mentioned in Rules 2 to 5, and no other claim, then, if that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence, enter against that defendant such judgment in respect of any such claim as he would be entitled to enter under those Rules if that were the only claim made, and proceed with the action against the other defendants, if any.

Default of defence: Other claims (O. 19, r. 7).

7.—(1) Where the plaintiff makes against a defendant or defendants a claim of a description not mentioned in Rules 2 to 5, then, if the defendant or all the defendants (where there is more than one) fails or fail to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed under these Rules for service of the defence, apply to the Court for judgment, and on the hearing of the application the Court shall give such judgment as the plaintiff appears entitled to on his statement of claim.

(2) Where the plaintiff makes such a claim as is mentioned in paragraph (1) against more than one defendant, then, if one of the defendants makes default as mentioned in that paragraph, the plaintiff may —

- (a) if his claim against the defendant in default is severable from his claim against the other defendants, apply under that paragraph for judgment against that defendant, and proceed with the action against the other defendants; or
- (b) set down the action on motion for judgment against the defendant in default at the time when the action is set down for trial, or is set down on motion for judgment, against the other defendants.

(3) An application under paragraph (1) must be by summons or motion.

Default of defence to counterclaim (O. 19, r. 8).

8. A defendant who counterclaims against a plaintiff shall be treated for the purposes of Rules 2 to 7 as if he were a plaintiff who had made against a defendant the claim made in the counterclaim and, accordingly, where the plaintiff or any other party against whom the counterclaim is made fails to serve a defence to counterclaim, those Rules shall apply as if the counterclaim were a statement of claim, the defence to counterclaim a defence and the parties making the counterclaim and against whom it is made were plaintiffs and defendants respectively, and as if references to the period fixed under these Rules for service of the defence were references to the period so fixed for service of the defence to counterclaim.

Setting aside judgment (O. 19, r. 9).

9. The Court may, on such terms as it thinks just, set aside or vary any judgment entered in pursuance of this Order.

ORDER 20

AMENDMENT

Amendment of writ without leave (O. 20, r. 1).

1.—(1) Subject to paragraph (3), the plaintiff may, without the leave of the Court, amend the writ once at any time before the pleadings in the action begun by the writ are deemed to be closed.

(2) Where a writ is amended under this Rule after service thereof, then, unless the Court otherwise directs on an application made *ex parte*, the amended writ must be served on each defendant to the action.

(3) This Rule shall not apply in relation to an amendment which consists of —

- (a) the addition, omission or substitution of a party to the action or an alteration of the capacity in which a party to the action sues or is sued;
- (b) the addition or substitution of a new cause of action; or
- (c) (without prejudice to Rule 3 (1)) an amendment of the statement of claim (if any) endorsed on the writ, unless the amendment is made before service of the writ on any party to the action.

Amendment of appearance (O. 20, r. 2).

2. A defendant may not amend his memorandum of appearance without the leave of the Court.

Amendment of pleadings without leave (O. 20, r. 3).

3.—(1) A party may, without the leave of the Court, amend any pleading of his once at any time before the pleadings are deemed to be closed and, where he does so, he must serve the amended pleading on the opposite party.

(2) Where an amended statement of claim is served on a defendant —

- (a) the defendant, if he has already served a defence on the plaintiff, may amend his defence;
- (b) the period for service of his defence or amended defence, as the case may be, shall be either the period fixed under these Rules for service of his defence or a period of 14 days after the amended statement of claim is served on him, whichever expires later.

(3) Where an amended defence is served on the plaintiff by a defendant —

- (a) the plaintiff, if he has already served a reply on that defendant, may amend his reply; and
- (b) the period for service of his reply or amended reply, as the case may be, shall be 14 days after the amended defence is served on him.

(4) In paragraphs (2) and (3) references to a defence and a reply include references to a counterclaim and a defence to counterclaim respectively.

(5) Where an amended counterclaim is served by a defendant on a party (other than the plaintiff) against whom the counterclaim is made, paragraph (2) shall apply as if the counterclaim were a statement of claim and as if the party by whom the counterclaim is made were the plaintiff and the party against whom it is made a defendant.

(6) Where a party has pleaded to a pleading which is subsequently amended and served on him under paragraph (1), then, if that party does not amend his pleading under paragraphs (1) to (5), he shall be taken to rely on it in answer to the amended pleading, and Order 18, Rule 14 (2), shall have effect in such a case as if the amended pleading had been served at the time when that pleading, before its amendment under paragraph (1), was served.

Application for disallowance of amendment made without leave (O. 20, r. 4).

4.—(1) Within 14 days after the service on a party of a writ amended under Rule 1 (1) or of a pleading amended under Rule 3 (1), that party may apply to the Court to disallow the amendment.

(2) Where the Court hearing an application under this Rule is satisfied that if an application for leave to make the amendment in question had been made under Rule 5 at the date when the amendment was made under Rule 1 (1) or Rule 3 (1) leave to make the amendment or part of the amendment would have been refused, it shall order the amendment or that part to be struck out.

(3) Any order made on an application under this Rule may be made on such terms as to costs or otherwise as the Court thinks just.

Amendment of writ or pleading with leave (O. 20, r. 5).

5.—(1) Subject to Order 15, Rules 6, 6A, 7 and 8, and this Rule, the Court may at any stage of the proceedings allow the plaintiff to amend his writ, or any party to amend his pleading, on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct.

(2) Where an application to the Court for leave to make the amendment mentioned in paragraph (3), (4) or (5) is made after any relevant period of limitation current at the date of issue of the writ has expired, the Court may nevertheless grant such leave in the circumstances mentioned in that paragraph if it thinks it just to do so.

(3) An amendment to correct the name of a party may be allowed under paragraph (2) notwithstanding that it is alleged that the effect of the amendment will be to substitute a new party if the Court is satisfied that the mistake sought to be corrected was a genuine mistake and was not misleading or such as to cause any reasonable doubt as to the identity of the person intending to sue or, as the case may be, intended to be sued.

(4) An amendment to alter the capacity in which a party sues (whether as plaintiff or as defendant by counterclaim) may be allowed under paragraph (2) if the capacity in which, if the amendment is made, the party will sue is one in which at the date of issue of the writ or the making of the counterclaim, as the case may be, he might have sued.

(5) An amendment may be allowed under paragraph (2) notwithstanding that the effect of the amendment will be to add or substitute a new cause of action if the new cause of action arises out of the same facts or substantially the same facts as a cause of action in respect of which relief has already been claimed in the action by the party applying for leave to make the amendment.

Amendment of writ and pleadings during court vacation (O. 20, r. 6).

6. [Deleted]

Amendment of other originating process (O. 20, r. 7).

7. Rule 5 shall have effect in relation to an originating summons, a petition and an originating notice of motion as it has effect in relation to a writ.

Amendment of certain other documents (O. 20, r. 8).

8.—(1) For the purpose of determining the real question in controversy between the parties to any proceedings, or of correcting any defect or error in any proceedings, the Court may at any stage of the proceedings and either of its own motion or on the application of any party to the proceedings order any document in the proceedings to be amended on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct.

(2) This Rule shall not have effect in relation to a judgment or order.

Failure to amend after order (O. 20, r. 9).

9. Where the Court makes an order under this Order giving any party leave to amend a writ, pleading or other document, then, if that party does not amend the document in accordance with the order before the expiration of the period specified for that purpose in the order or, if no period is so specified, of a period of 14 days after the order was made, the order shall cease to have effect, without prejudice, however, to the power of the Court to extend the period.

Mode of amendment of writ, etc. (O. 20, r. 10).

10.—(1) Where the amendments authorised under any Rule of this Order to be made in a writ, pleading or other document are so numerous or of such a nature or length that to make written alterations of the document so as to give effect to them would make it difficult or inconvenient to read, a fresh document, amended as so authorised, must be prepared and, in the case of a writ or originating summons, reissued, but, except as aforesaid and subject to any direction given under Rule 5 or 8, the amendments so authorised may be effected by making in writing the necessary alterations of the document and, in the case of a writ or originating summons, causing it to be re-sealed and filing a copy thereof.

(2) A writ, pleading or other document which has been amended under this Order must be endorsed with a statement that it has been amended, specifying the date on which it was amended and by whom the order (if any) authorising the amendment was made and the date thereof, or, if no such order was made, the number of the Rule of this Order in pursuance of which the amendment was made.

Amendment of judgment and orders (O. 20, r. 11).

11. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court by summons without an appeal.

Amendment of pleadings by agreement (O. 20, r. 12).

12.—(1) Notwithstanding the foregoing provisions of this Order any pleading in any cause or matter may, by written agreement between the parties, be amended at any stage of the proceedings.

(2) This rule shall not have effect in relation to an amendment to a counterclaim which consists of the addition, omission or substitution of a party.

ORDER 21**WITHDRAWAL AND DISCONTINUANCE****Withdrawal of appearance (O. 21, r. 1).**

1. A party who has entered an appearance in an action may withdraw the appearance at any time with the leave of the Court.

Discontinuance of action, etc., without leave (O. 21, r. 2).

2.—(1) The plaintiff in an action begun by writ may, without the leave of the Court, discontinue the action, or withdraw any particular claim made by him therein, as against all or any of the defendants at any time not later than 14 days after service of the defence on him or, if there are two or more defendants, of the defence last served, by serving a notice in Form 36 to that effect on the defendant concerned.

(2) A defendant may, without the leave of the Court —

(a) withdraw his defence or any part of it at any time;

(b) discontinue a counterclaim, or withdraw any particular claim made by him therein, as against all or any of the parties against whom it is made, at any time not later than 14 days after service on him of a defence to counterclaim or, if the counterclaim is made against two or more parties, of the defence to counterclaim last served,

by serving a notice in Form 36 to that effect on the plaintiff or other party concerned.

(3) Where there are two or more defendants to an action not all of whom serve a defence on the plaintiff, and the period fixed under these Rules for service by any of those defendants of his defence expires after the latest date on which any other defendant serves his defence, paragraph (1) shall have effect as if the reference therein to the service of the defence last served were a reference to the expiration of that period.

This paragraph shall apply in relation to a counterclaim as it applies in relation to an action with the substitution for references to a defence, to the plaintiff and to paragraph (1), of references to a defence to counterclaim, to the defendant and to paragraph (2) respectively.

(4) If all the parties to an action consent, the action may be withdrawn without the leave of the Court at any time before trial by producing to the Registrar a written consent to the action being withdrawn signed by all the parties.

Discontinuance of action, etc., with leave (O. 21, r. 3).

3.—(1) Except as provided by Rule 2, a party may not discontinue an action (whether begun by writ or otherwise) or counterclaim, or withdraw any particular claim made by him therein, without the leave of the Court, and the Court hearing an application for the grant of such leave may order the action or counterclaim to be discontinued, or any particular claim made therein to be struck out, as against all or any of the parties against whom it is brought or made on such terms as to costs, the bringing of a subsequent action or otherwise as it thinks just.

(2) An application for the grant of leave under this Rule may be made by summons.

Effect of discontinuance (O. 21, r. 4).

4. Subject to any terms imposed by the Court in granting leave under Rule 3, the fact that a party has discontinued an action or counterclaim or withdrawn a particular claim made by him therein shall not be a defence to a subsequent action for the same, or substantially the same, cause of action.

Stay of subsequent action until costs paid (O. 21, r. 5).

5.—(1) Where a party has discontinued an action or counterclaim or withdrawn any particular claim made by him therein and he is liable to pay any other party's costs of the action or counterclaim or the costs occasioned to any other party by the claim withdrawn, then, if before payment of those costs, he subsequently brings an action for the same, or substantially the same, cause of action, the Court may order the proceedings in that action to be stayed until those costs are paid.

(2) An application for an order under this Rule may be made by summons or by notice under Order 25, Rule 7.

Withdrawal of summons (O. 21, r. 6).

6. A party who has taken out a summons in a cause or matter may not withdraw it without the leave of the Court.

ORDER 22

PAYMENT INTO AND OUT OF COURT

Payment into Court (O. 22, r. 1).

1.—(1) In any action for a debt or damages any defendant may at any time after he has entered an appearance in the action pay into Court a sum of money in satisfaction of the cause of action in respect of which the plaintiff claims or, where two or more causes of action are joined in the action, a sum or sums of money in satisfaction of all or any of those causes of action.

(2) On making any payment into Court under this Rule, and on increasing any such payment already made, the defendant must give notice thereof in Form ³⁴34 to the plaintiff and every other defendant (if any); and within 3 days after receiving the notice the plaintiff must send the defendant a written acknowledgment of its receipt.

(3) A defendant may, without leave, give notice of an increase in a payment made under this Rule but, subject to that and without prejudice to paragraph (5), a notice of payment may not be withdrawn or amended without the leave of the Court which may be granted on such terms as may be just.

(4) Where two or more causes of action are joined in the action and money is paid into Court under this Rule in respect of all, or some only of, those causes of action, the notice of payment —

(a) must state that the money is paid in respect of all those causes of action or, as the case may be, must specify the cause or causes of action in respect of which the payment is made; and

(b) where the defendant makes separate payments in respect of each, or any two or more, of those causes of action, must specify the sum paid in respect of that cause or, as the case may be, those causes of action.

(5) Where a single sum of money is paid into Court under this Rule in respect of two or more causes of action, then, if it appears to the Court that the plaintiff is embarrassed by the payment, the Court may, subject to paragraph (6), order the defendant to amend the notice of payment so as to specify the sum paid in respect of each cause of action.

(6) Where a cause of action under section 7 of the Civil Law Act (Chapter 43) and a cause of action under section 12 of that Act are joined in an action, with or without any other cause of action, the causes of action under those sections shall, for the purpose of paragraph (5), be treated as one cause of action.

(7) For the purposes of this Rule, the plaintiff's cause of action in respect of a debt or damages shall be construed as a cause of action in respect, also, of such interest as might be included in the judgment, if judgment were given at the date of the payment into Court.

Payment in by defendant who has counterclaimed (O. 22, r. 2).

2. Where a defendant, who makes by counterclaim a claim against the plaintiff for a debt or damages, pays a sum of money into Court under Rule 1, the notice of payment must state, if it be the case, that in making the payment the defendant has taken into account and intends to satisfy —

- (a) the cause of action in respect of which he claims; or
- (b) where two or more causes of action are joined in the counterclaim, all those causes of action or, if not all, which of them.

Acceptance of money paid into Court (O. 22, r. 3).

3.—(1) Where money is paid into Court under Rule 1, then subject to paragraph (2), within 14 days after receipt of the notice of payment or, where more than one payment has been made or the notice has been amended, within 14 days after receipt of the notice of the last payment or the amended notice but, in any case, before the trial or hearing of the action begins, the plaintiff may —

- (a) where the money was paid in respect of the cause of action or all the causes of action in respect of which he claims, accept the money in satisfaction of that cause of action or those causes of action, as the case may be; or
- (b) where the money was paid in respect of some only of the causes of action in respect of which he claims, accept in satisfaction of any such cause or causes of action the sum specified in respect of that cause or those causes of action in the notice of payment,

by giving notice in Form 35 to every defendant to the action.

(2) Where after the trial or hearing of an action has begun —

- (a) money is paid into Court under Rule 1; or
- (b) money in Court is increased by a further payment into Court under that Rule,

the plaintiff may accept the money in accordance with paragraph (1) within 2 days after receipt of the notice of payment or notice of the further payment, as the case may be, but, in any case, before the Judge begins to deliver judgment.

(3) Rule 1 (5) shall not apply in relation to money paid into Court in an action after the trial or hearing of the action has begun.

(4) On the plaintiff accepting any money paid into Court all further proceedings in the action or in respect of the specified cause or causes of action, as the case may be, to which the acceptance relates, both against the defendant making the payment and against any other defendant sued jointly with or in the alternative to him shall be stayed.

(5) Where money is paid into Court by a defendant who made a counterclaim and the notice of payment stated, in relation to any sum so paid, that in making the payment the defendant had taken into account and satisfied the cause or causes of action, or the specified cause or causes of action in respect of which he claimed, then, on the plaintiff accepting that sum, all further proceedings on the counterclaim or in respect of the specified cause or causes of action, as the case may be, against the plaintiff shall be stayed.

(6) A plaintiff who has accepted any sum paid into Court shall, subject to Rules 4 and 10 and Order 76, Rule 12, be entitled to receive payment of that sum in satisfaction of the cause or causes of action to which the acceptance relates.

Order for payment out of money accepted required in certain cases (O. 22, r. 4).

4.—(1) Where a plaintiff accepts any sum paid into Court and that sum was paid into Court —

- (a) by some but not all of the defendants sued jointly or in the alternative by him;
- (b) with a defence of tender before action; or
- (c) in satisfaction either of causes of action arising under sections 7 and 12 of the Civil Law Act (Chapter 43) or of a cause of action arising under the said section 12 where more than one person is entitled to the money,

the money in Court shall not be paid out except under paragraph (2) or in pursuance of an order of the Court, and the order shall deal with the whole costs of the action or of the cause of action to which the payment relates, as the case may be.

(2) Where an order of the Court is required under paragraph (1) by reason only of paragraph (1) (a), then, if, either before or after accepting the money paid into Court by some only of the defendants sued jointly or in the alternative by him, the plaintiff discontinues the action against all other defendants and those defendants consent in writing to the payment out of that sum, it may be paid out without an order of the Court.

(3) Where after the trial or hearing of an action has begun a plaintiff accepts any money paid into Court and all further proceedings in the action or in respect of the specified cause or causes of action, as the case may be, to which the acceptance relates are stayed by virtue of Rule 3 (4) then,

notwithstanding anything in paragraph (2), the money shall not be paid out except in pursuance of an order of the Court, and the order shall deal with the whole costs of the action.

Money remaining in Court (O. 22, r. 5).

5. If any money paid into Court in an action is not accepted in accordance with Rule 3, the money remaining in Court shall not be paid out except in pursuance of an order of the Court which may be made at any time before, at or after the trial or hearing of the action; and where such an order is made before the trial or hearing the money shall not be paid out except in satisfaction of the cause or causes of action in respect of which it was paid in.

Counterclaim (O. 22, r. 6).

6. A plaintiff against whom a counterclaim is made and any other defendant to the counterclaim may pay money into Court in accordance with Rule 1, and that Rule and Rules 3 (except paragraph (5)), 4 and 5 shall apply accordingly with the necessary modifications.

Non-disclosure of payment into Court (O. 22, r. 7).

7. Except in an action to which a defence of tender before action is pleaded, and except in an action all further proceedings in which are stayed by virtue of Rule 3 (4) after the trial or hearing has begun, the fact that money has been paid into Court under Rules 1 to 6 shall not be pleaded and no communication of that fact shall be made to the Court at the trial or hearing of the action or counterclaim or of any question or issue as to the debt or damages until all questions of liability and of the amount of debt or damages have been decided.

Money paid into Court under order (O. 22, r. 8).

8.—(1) Subject to paragraph (2), money paid into Court under an order of the Court or a certificate of the Registrar shall not be paid out except in pursuance of an order of the Court.

(2) Unless the Court otherwise orders, a party who has paid money into Court in pursuance of an order made under Order 14 —

- (a) may by notice to the other party appropriate the whole or any part of the money and any additional payment, if necessary, to any particular claim made in the writ or counterclaim, as the case may be, and specified in the notice; or
- (b) if he pleads a tender, may by his pleading appropriate the whole or any part of the money as payment into Court of the money alleged to have been tendered,

and money appropriated in accordance with this Rule shall be deemed to be money paid into Court in accordance with Rule 1 or money paid into Court with a plea of tender, as the case may be, and this Order shall apply accordingly.

Payment out of money paid into Court under Exchange Control Act (O. 22, r. 9).

9.—(1) Where money has been paid into Court in any cause or matter pursuant to the Exchange Control Act (Chapter 99), or an order of the Court made thereunder, any party to the cause or matter may apply for payment out of Court of that money.

(2) An application for an order under this Rule must be made by summons which must be served on all parties interested.

(3) If any person in whose favour an order for payment under this Rule is sought is resident outside the scheduled territories or will receive payment by order or on behalf of a person so resident, that fact must be stated in the summons.

(4) If the permission of the Monetary Authority of Singapore authorising the proposed payment has been given unconditionally or on conditions which have been complied with, that fact must be stated in the summons and the permission must be attached to the summons.

Person to whom payment to be made (O. 22, r. 10).

10.—(1) Where the party entitled to money in Court is a person in respect of whom a certificate is or has been in force entitling him to legal aid under the Legal Aid and Advice Act 1995 (Act 20 of 1995), payment shall be made only to that party's solicitor, or, if he is not represented by a solicitor, then, if the Court so orders, to the Director of Legal Aid, without the need for any authority from the party.

(2) Subject to paragraph (1), payment shall be made to the party entitled or, on his written authority, to his solicitor or, if the Court so orders, to his solicitor without such authority.

(3) This Rule applies whether the money in Court has been paid into Court under Rule 1 or under the order of the Court or a certificate of the Registrar.

Payment out: Small intestate estates (O. 22, r. 11).

11. Where a person entitled to a fund in Court, or a share of such fund, dies intestate and the Court is satisfied that no grant of administration of his estate has been made and that the assets of his estate do not exceed \$50,000 in value, including the value of the fund or share it may order that the fund or share shall be paid, transferred or delivered to the person who,

being a widower, widow, child, father, mother, brother or sister of the deceased, would have the prior right to a grant of administration of the estate of the deceased.

Payment of hospital expenses (O. 22, r. 12).

12.—(1) This Rule applies in relation to an action or counterclaim for bodily injury arising out of the use of a motor vehicle on a road or any place to which the public has a right of access in which the claim for damages includes a sum for hospital expenses.

(2) Where the party against whom the claim is made, or an authorised insurer within the meaning of section 4 of the Motor Vehicles (Third-Party Risks and Compensation) Act (Chapter 189), pays the amount for which that party or insurer, as the case may be, is or may be liable under that Act in respect of the treatment afforded by a hospital to the person in respect of whom the claim is made, the party against whom the claim is made must, within 7 days after payment is made, give notice of the payment to all the other parties to the action.

ORDER 22A

OFFER TO SETTLE

Offer to settle (O. 22A, r. 1).

1. A party to any proceedings may serve on any other party an offer to settle any one or more of the claims in the proceedings on the terms specified in the offer to settle. The offer to settle shall be in Form 38A.

Timing (O. 22A, r. 2).

2. An offer to settle may be made at any time before the Court disposes of the matter in respect of which it is made.

Time for acceptance and withdrawal (O. 22A, r. 3).

3.—(1) An offer to settle shall be open for acceptance for a period of not less than 14 days after it is served. If an offer to settle is made less than 14 days before the hearing of the matter, it shall remain open for a period of not less than 14 days unless in the meanwhile the matter is disposed of.

(2) Subject to paragraph (1), an offer to settle which is expressed to be limited as to the time within which it is open for acceptance shall not be withdrawn within that time without the leave of the Court. An offer to settle which does not specify a time for acceptance may be withdrawn at any time after the expiry of 14 days from the date of service of the offer on the other party provided that at least one day's prior notice of the intention to withdraw the offer is given.

(3) The notice of withdrawal of the offer shall be in Form 38B.

(4) Where an offer to settle specifies a time within which it may be accepted and it is not accepted or withdrawn within that time, it shall be deemed to have been withdrawn when the time expires.

(5) Where an offer to settle does not specify a time for acceptance, it may be accepted at any time before the Court disposes of the matter in respect of which it is made.

Without prejudice Rule (O. 22A, r. 4).

4. An offer to settle shall be deemed to be an offer of compromise made without prejudice save as to costs unless the notice of offer otherwise provides.

Non-disclosure (O. 22A, r. 5).

5.—(1) An offer to settle shall not be filed and no statement of the fact that such an offer has been made shall be contained in any pleading or affidavit.

(2) Where an offer to settle is not accepted, no communication respecting the offer shall be made to the Court at the hearing of the proceeding until all questions of liability and the relief to be granted, other than costs, have been determined.

Manner of acceptance (O. 22A, r. 6).

6.—(1) An offer to settle shall be accepted by serving an acceptance of offer in Form 38C on the party who made the offer.

(2) Where a party to whom an offer to settle is made rejects the offer or responds with a counter-offer that is not accepted, the party may thereafter accept the original offer to settle, unless it has been withdrawn or the Court has disposed of the matter in respect of which it was made.

(3) Where an offer is accepted, the Court may incorporate any of its terms into a judgement.

Party under disability (O. 22, r. 7).

7. A party under disability may make, withdraw and accept an offer to settle, but no acceptance of an offer made by him and no acceptance by him of an offer made by another party is binding on him until the settlement has been approved as provided in Order 76, Rule 10.

Compliance with an accepted offer to settle (O. 22A, r. 8).

8.—(1) Where a party to an accepted offer to settle fails to comply with any of the terms of the accepted offer, the other party may —

- (a) make an application to a judge for judgment in the terms of the accepted offer, and the judge may grant judgment accordingly; or

-
- (b) continue the proceeding as if there had been no accepted offer to settle.

(2) Where the offer to settle involves the payment of money by instalments, the accepted offer to settle shall unless the parties otherwise provide be deemed to include a term that all instalments outstanding shall be immediately payable upon the failure to comply with the payment of any instalment.

Costs (O. 22A, r. 9).

9.—(1) Where an offer to settle made by a plaintiff —

- (a) is not withdrawn and has not expired before the disposal of the claim in respect of which the offer to settle is made ; and
- (b) is not accepted by the defendant, and the plaintiff obtains a judgment not less favourable than the terms of the offer to settle,

the plaintiff is entitled to costs on the standard basis to the date an offer to settle was served and costs on the indemnity basis from that date, unless the Court orders otherwise.

(2) Where an accepted offer to settle does not provide for costs, the plaintiff is entitled —

- (a) where the offer was made by him, to his costs assessed to the date that the notice of acceptance was served; or
- (b) where the offer was made by the defendant, to his costs assessed to the date the plaintiff was served with the offer.

(3) Where an offer to settle made by a defendant —

- (a) is not withdrawn and has not expired before the disposal of the claim in respect of which the offer to settle is made; and
- (b) is not accepted by the plaintiff, and the plaintiff obtains judgment not more favourable than the terms of the offer to settle,

the plaintiff is entitled to costs on the standard basis to the date the offer was served and the defendant is entitled to costs on the indemnity basis from that date, unless the Court orders otherwise.

(4) (a) Any interest awarded in respect of the period before service of the offer to settle is to be considered by the Court in determining whether the plaintiff's judgment is more favourable than the terms of the offer to settle.

(b) Any interest awarded in respect of the period after service of the offer to settle is not to be considered by the Court in determining whether the plaintiff's judgment is more favourable than the terms of the offer to settle.

Joint and several liability (O. 22A, r. 10).

10. Where there are two or more defendants, the plaintiff may offer to settle with any defendant and any defendant may offer to settle with the plaintiff, but where the defendants are alleged to be jointly or jointly and severally liable to the plaintiff in respect of a claim and rights of contribution or indemnity may exist between the defendants, the cost consequences prescribed by Rule 9 do not apply to an offer to settle unless —

- (a) in the case of an offer made by the plaintiff, the offer is made to all the defendants, and is an offer to settle the claim against all the defendants; or
- (b) in the case of an offer made to the plaintiff —
 - (i) the offer is an offer to settle the plaintiff's claim against all the defendants and to pay the costs of any defendant who does not join in making the offer; or
 - (ii) the offer is made by all the defendants and is an offer to settle the claim against all the defendants, and, by the terms of the offer, they are made jointly and severally liable to the plaintiff for the whole of the offer.

Offer to contribute (O. 22A, r. 11).

11.—(1) Where two or more defendants are alleged to be jointly or jointly and severally liable to the plaintiff in respect of a claim, any defendant may make to any other defendant an offer to contribute in Form 38D towards a settlement of the claim.

(2) The Court may take into account an offer to contribute in determining whether another defendant should be ordered —

- (a) to pay the costs of the defendant who made the offer; or
- (b) to indemnify the defendant who made the offer for any costs he is liable to pay to the plaintiff,

or to do both.

(3) Rules 2 to 12 shall apply to an offer to contribute as if it were an offer to settle.

Discretion of Court (O. 22A, r. 12).

12. Without prejudice to Rules 9 and 10, the Court, in exercising its discretion with respect to costs, may take into account any offer to settle, the date the offer was made, the terms of the offer and the extent to which the plaintiff's judgment is more favourable than the terms of the offer to settle.

Counter-claims and third party claims (O. 22A, r. 13).

13. Rules 1 to 12 shall apply, with necessary modifications, to counter-claims and third party claims.

ORDER 23

SECURITY FOR COSTS

Security for costs of action, etc. (O. 23, r. 1).

1.—(1) Where, on the application of a defendant to an action or other proceeding in the Court, it appears to the Court —

- (a) that the plaintiff is ordinarily resident out of the jurisdiction;
- (b) that the plaintiff (not being a plaintiff who is suing in a representative capacity) is a nominal plaintiff who is suing for the benefit of some other person and that there is reason to believe that he will be unable to pay the costs of the defendant if ordered to do so;
- (c) subject to paragraph (2), that the plaintiff's address is not stated in the writ or other originating process or is incorrectly stated therein; or
- (d) that the plaintiff has changed his address during the course of the proceedings with a view to evading the consequences of the litigation,

then, if, having regard to all the circumstances of the case, the Court thinks it just to do so, it may order the plaintiff to give such security for the defendant's costs of the action or other proceeding as it thinks just.

(2) The Court shall not require a plaintiff to give security by reason only of paragraph (1) (c) if he satisfies the Court that the failure to state his address or the mis-statement thereof was made innocently and without intention to deceive.

(3) The references in paragraphs (1) and (2) to a plaintiff and a defendant shall be construed as references to the person (howsoever described on the record) who is in the position of plaintiff or defendant, as the case may be, in the proceeding in question, including a proceeding on a counterclaim.

Manner of giving security (O. 23, r. 2).

2. Where an order is made requiring any party to give security for costs, the security shall be given in such manner, at such time, and on such terms (if any), as the Court may direct.

Saving for written law (O. 23, r. 3).

3. This Order is without prejudice to the provisions of any written law which empowers the Court to require security to be given for the costs of any proceedings.

ORDER 24

DISCOVERY AND INSPECTION OF DOCUMENTS

Mutual discovery of documents (O. 24, r. 1).

1.—(1) After the close of pleadings in an action begun by writ there shall, subject to and in accordance with this Order, be discovery by the parties to the action of the documents which are or have been in their possession, custody or power relating to matters in question in the action.

(2) Nothing in this Order shall be taken as preventing the parties to an action agreeing to dispense with or limit the discovery of documents which they would otherwise be required to make to each other.

Discovery by parties without order (O. 24, r. 2).

2.—(1) Subject to this Rule and Rule 4, the parties to an action between whom pleadings are closed must make discovery by exchanging lists of documents and, accordingly, each party must, within 14 days after the pleadings in the action are deemed to be closed as between him and any other party, make and serve on that other party a list of the documents which are or have been in his possession, custody or power relating to any matter in question between them in the action.

Without prejudice to any directions given by the Court under Order 16, Rule 4, this paragraph shall not apply in third party proceedings, including proceedings under that Order involving fourth or subsequent parties.

(2) [Deleted by G.N. No. S 281/91]

(3) Paragraph (1) shall not be taken as requiring a defendant to an action for the recovery of any penalty recoverable by virtue of any written law to make discovery of any documents or as requiring a defendant to an action to enforce a forfeiture to make discovery of any documents relating to the issue of forfeiture.

(4) Paragraph (3) shall apply in relation to a counterclaim as it applies in relation to an action.

(5) On the application of any party required by this Rule to make discovery of documents, the Court may —

- (a) order that the parties to the action or any of them shall make discovery under paragraph (1) of such documents or classes of documents only, or as to such only of the matters in question, as may be specified in the order; or
- (b) if satisfied that discovery by all or any of the parties is not necessary, or not necessary at the stage of the action, order that there shall be no discovery of documents by any or all of the parties either at all or at that stage,

and the Court shall make such an order if and so far as it is of the opinion that discovery is not necessary either for disposing fairly of the action or for saving costs.

(6) An application for an order under paragraph (5) must be by summons, and the summons must be taken out before the expiration of the period within which by virtue of this Rule discovery of documents in the action is required to be made.

(7) Any party to whom discovery of documents is required to be made under this Rule may, at any time before the summons for directions in the action is taken out, serve on the party required to make such discovery a notice in Form 39 requiring him to make an affidavit verifying the list he is required to make under paragraph (1), and the party on whom such a notice is served must, within 14 days after service of the notice, make and file an affidavit in compliance with the notice and serve a copy of the affidavit on the party by whom the notice was served.

Order for discovery (O. 24, r. 3).

3.—(1) Subject to this Rule and Rules 4 and 8, the Court may order any party to a cause or matter (whether begun by writ, originating summons or otherwise) to make and serve on any other party a list of the documents which are or have been in his possession, custody or power relating to any matter in question in the cause or matter, and may at the same time or subsequently also order him to make and file an affidavit verifying such a list and to serve a copy thereof on the other party.

(2) Where a party who is required by Rule 2 to make discovery of documents fails to comply with any provision of that Rule, the Court, on the application of any party to whom the discovery was required to be made, may make an order against the first-mentioned party under paragraph (1) or, as the case may be, may order him to make and file an affidavit verifying the list of documents he is required to make under Rule 2 and to serve a copy thereof on the applicant.

(3) An order under this Rule may be limited to such documents or classes of documents only, or to such only of the matters in question in the cause or matter, as may be specified in the order.

Order for determination of issue, etc., before discovery (O. 24, r. 4).

4.—(1) Where on an application for an order under Rule 2 or 3 it appears to the Court that any issue or question in the cause or matter should be determined before any discovery of documents is made by the parties, the Court may order that that issue or question be determined first.

(2) Where in an action begun by writ an order is made under this Rule for the determination of an issue or question, Order 25, Rules 2 to 7 shall, with the omission of so much of Rule 7 (1) as requires parties to serve a notice specifying the orders and directions which they desire and with any

other necessary modifications, apply as if the application on which the order was made were a summons for directions.

Form of list and affidavit (O. 24, r. 5).

5.—(1) A list of documents made in compliance with Rule 2 or with an order under Rule 3 must be in Form 40, and must enumerate the documents in a convenient order and as shortly as possible but describing each of them or, in the case of bundles of documents of the same nature, each bundle, sufficiently to enable it to be identified.

(2) If it is desired to claim that any documents are privileged from production, the claim must be made in the list of documents with a sufficient statement of the grounds of the privilege.

(3) An affidavit made as aforesaid verifying a list of documents must be in Form 41.

Defendant entitled to copy of co-defendant's list (O. 24, r. 6).

6.—(1) A defendant who has pleaded in an action shall be entitled to have a copy of any list of documents served under Rule 1, 2, 3, 4 and 5 on the plaintiff by any other defendant to the action; and a plaintiff against whom a counterclaim is made in an action begun by writ shall be entitled to have a copy of any list of documents served under any of those Rules on the party making the counterclaim by any other defendant to the counterclaim.

(2) A party required by virtue of paragraph (1) to supply a copy of a list of documents must supply it free of charge on a request made by the party entitled to it.

(3) Where in an action begun by originating summons the Court makes an order under Rule 3 requiring a defendant to the action to serve a list of documents on the plaintiff, it may also order him to supply any other defendant to the action with a copy of that list.

(4) In this Rule, "list of documents" includes an affidavit verifying a list of documents.

Order for discovery of particular documents (O. 24, r. 7).

7.—(1) Subject to Rule 8, the Court may at any time, on the application of any party to a cause or matter, make an order requiring any other party to make an affidavit stating whether any document specified or described in the application or any class of document so specified or described is, or has at any time been, in his possession, custody or power, and if not then in his possession, custody or power when he parted with it and what has become of it.

(2) An order may be made against a party under this Rule notwithstanding that he may already have made or been required to make a list of documents or affidavit under Rule 2 or 3.

(3) An application for an order under this Rule must be supported by an affidavit stating the belief of the deponent that the party from whom discovery is sought under this Rule has, or at some time had, in his possession, custody or power, the document, or class of document, specified or described in the application and that it relates to one or more of the matters in question in the cause or matter.

Discovery against other person (O. 24, r. 7A).

7A.—(1) An application for an order for the discovery of documents before the commencement of proceedings shall be made by originating summons (in Form 7) and the person against whom the order is sought shall be made defendant to the summons.

(2) An application after the commencement of proceedings for an order for the disclosure of documents by a person who is not a party to the proceedings shall be made by summons, which must be served on that person personally and on every party to the proceedings.

(3) A summons under paragraph (1) or (2) shall be supported by an affidavit which must —

(a) in the case of a summons under paragraph (1) state the grounds for the application, the material facts pertaining to the intended proceedings and whether the person against whom the order is sought is likely to be party to subsequent proceedings in Court; or

(b) in any case, specify or describe the documents in respect of which the order is sought and show, if practicable by reference to any pleading served or intended to be served in the proceedings, that the documents are relevant to an issue arising or likely to arise out of the claim made or likely to be made in the proceedings and that the person against whom the order is sought is likely to have or have had them in his possession, custody or power.

(4) A copy of the supporting affidavit shall be served with the summons on every person on whom the summons is required to be served.

(5) An order for the disclosure of documents may be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just, and may require the person against whom the order is made to make an affidavit stating whether any documents specified or described in the order are, or at any time have been, in his possession, custody or power and, if not then in his possession, custody or power, when he parted with them and what has become of them.

(6) No person shall be compelled by virtue of such an order to produce any documents which he could not be compelled to produce —

(a) in the case of a summons under paragraph (1) if the subsequent proceedings had already been begun; or

(b) in the case of a summons under paragraph (2) if he had been served with a writ of subpoena *duces tecum* to produce the documents at the trial.

(7) For the purpose of Rules 10 and 11, an application for an order under this Rule shall be treated as a cause or matter between the applicant and the person against whom the order is sought.

(8) Unless the Court orders otherwise, where an application is made in accordance with this Rule for an order, the person against whom the order is sought shall be entitled to his costs of the application, and of complying with any order made thereon on an indemnity basis.

Discovery to be ordered only if necessary (O. 24, r. 8).

8. On the hearing of an application for an order under Rule 3, 7 or 7A the Court, if satisfied that discovery is not necessary, or not necessary at that stage of the cause or matter, may dismiss or, as the case may be, adjourn the application and shall in any case refuse to make such an order if and so far as it is of opinion that discovery is not necessary either for disposing fairly of the cause or matter or for saving costs.

Inspection of documents referred to in list (O. 24, r. 9).

9. A party who has served a list of documents on any other party, whether in compliance with Rule 2 or with an order under Rule 3, must allow the other party to inspect the documents referred to in the list (other than any which he objects to produce) and to take copies thereof and, accordingly, he must when he serves the list on the other party also serve on him a notice in Form 42 stating a time within 7 days after the service thereof at which the documents may be inspected at a place specified in the notice.

Inspection of documents referred to in pleadings and affidavits (O. 24, r. 10).

10.—(1) Any party to a cause or matter shall be entitled at any time to serve a notice in Form 43 on any other party in whose pleadings or affidavits reference is made to any document requiring him to produce that document for the inspection of the party giving the notice and to permit him to take copies thereof.

(2) The party on whom a notice is served under paragraph (1) must, within 4 days after service of the notice, serve on the party giving the notice a notice in Form 44 stating a time within 7 days after the service thereof at which the documents, or such of them as he does not object to produce, may be inspected at a place specified in the notice, and stating which (if any) of the documents he objects to produce and on what grounds.

Order for production for inspection (O. 24, r. 11).

11.—(1) If a party who is required by Rule 9 to serve such a notice as is therein mentioned or who is served with a notice under Rule 10 (1) —

- (a) fails to serve a notice under Rule 9 or, as the case may be, Rule 10 (2);
- (b) objects to produce any document for inspection; or
- (c) offers inspection at a time or place such that, in the opinion of the Court, it is unreasonable to offer inspection then or, as the case may be, there,

then, subject to Rule 13 (1), the Court may, on the application of the party entitled to inspection, make an order in Form 45 for the production of the documents in question for inspection at such time and place, and in such manner, as it thinks fit.

(2) Without prejudice to paragraph (1), but subject to Rule 13 (1), the Court may, on the application of any party to a cause or matter, order any other party to permit the party applying to inspect any documents in the possession, custody or power of that other party relating to any matter in question in the cause or matter.

(3) An application for an order under paragraph (2) must be supported by an affidavit specifying or describing the documents of which inspection is sought and stating the belief of the deponent that they are in the possession, custody or power of the other party and that they relate to a matter in question in the cause or matter.

Order for production to Court (O. 24, r. 12).

12. At any stage of the proceedings in any cause or matter the Court may, subject to Rule 13 (1), order any party to produce to the Court any document in his possession, custody or power relating to any matter in question in the cause or matter and the Court may deal with the document when produced in such manner as it thinks fit.

Production to be ordered only if necessary, etc. (O. 24, r. 13).

13.—(1) No order for the production of any documents for inspection or to the Court shall be made under any of the foregoing Rules unless the Court is of the opinion that the order is necessary either for disposing fairly of the cause or matter or for saving costs.

(2) Where on an application under this Order for the production of any document for inspection or to the Court privilege from such production is claimed or objection is made to such production on any other ground, the Court may inspect the document for the purpose of deciding whether the claim or objection is valid.

Production of business books (O. 24, r. 14).

14.—(1) Where the production of any business books for inspection is applied for under any of the foregoing Rules, the Court may, instead of ordering the production of the original books for inspection, order a copy of any entries therein to be supplied and verified by an affidavit of some person who has examined the copy with the original books.

(2) Any such affidavit shall state whether or not there are in the original book any and what erasures, interlineations or alterations.

(3) Notwithstanding that a copy of any entries in any book has been supplied under this Rule, the Court may order production of the book from which the copy was made.

Document disclosure of which would be injurious to public interest: Saving (O. 24, r. 15).

15. Rules 1 to 14 shall be without prejudice to any rule of law which authorises or requires the withholding of any document on the ground that the disclosure of it would be injurious to the public interest.

Failure to comply with requirement for discovery, etc. (O. 24, r. 16).

16.—(1) If any party who is required by any of the foregoing Rules, or by any order made thereunder, to make discovery of documents or to produce any documents for the purpose of inspection or any other purpose fails to comply with any provision of that Rule or with that order, as the case may be, then, without prejudice, in the case of a failure to comply with any such provision, to Rules 3 (2) and 11 (1), the Court may make such order as it thinks just including, in particular, an order that the action be dismissed or, as the case may be, an order that the defence be struck out and judgment be entered accordingly.

(2) If any party against whom an order for discovery or production of documents is made fails to comply with it, then, without prejudice to paragraph (1), he shall be liable to committal.

(3) Service on a party's solicitor of an order for discovery or production of documents made against that party shall be sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that he had no notice or knowledge of the order.

(4) A solicitor on whom such an order made against his client is served and who fails without reasonable excuse to give notice thereof to his client shall be liable to committal.

Revocation and variation of orders (O. 24, r. 17).

17. Any order made under this Order (including an order made on appeal) may, on sufficient cause being shown, be revoked or varied by a subsequent order or direction of the Court made or given at or before the trial of the cause or the matter in connection with which the original order was made.

Production of certain documents in marine insurance actions (O. 24, r. 18).

18.—(1) Where in any action relating to a marine insurance policy an application for discovery of documents is made by the insurer under Rule 3 then without prejudice to its powers under that Rule, the Court, if satisfied that the circumstances of the case are such that it is necessary or expedient to do so, may make an order, either in Form 45A in Appendix A or in such other form as it thinks fit, for the production of such documents as are therein specified or described.

(2) An order under this Rule may be made on such terms, if any, as to staying proceedings in the action or otherwise, as the Court thinks fit.

ORDER 25**SUMMONS FOR DIRECTIONS****Summons for directions (O. 25, r. 1).**

1.—(1) With a view to providing, in every action to which this Rule applies, an occasion for the consideration by the Court of the preparations for the trial of the action, so that —

- (a) all matters which must or can be dealt with on interlocutory applications and have not already been dealt with may so far as possible be dealt with; and
- (b) such directions may be given as to the future course of the action as appear best adapted to secure the just, expeditious and economical disposal thereof,

the plaintiff must, within one month after the pleadings in the action are deemed to be closed, take out a summons in Form 46 (referred to in these Rules as a summons for directions) returnable in not less than 14 days.

(2) This Rule applies to all actions begun by writ except —

- (a) actions in which the plaintiff or defendant has applied for judgment under Order 14 and directions have been given under the relevant Order;
- (b) actions in which the plaintiff or defendant has applied under Order 18, Rule 22, for trial without pleadings or further pleadings and directions have been given under that Rule;

- (c) actions in which an order has been made under Order 24, Rule 4, for the trial of the issue or question before discovery;
- (d) actions in which directions have been given under Order 29, Rule 7;
- (e) actions in which an order for the taking of an account has been made under Order 43, Rule 1;
- (f) actions which have been referred to the Registrar for trial; and
- (g) actions for which automatic directions are provided by Rule 8.

(3) Where, in the case of any action in which discovery of documents is required to be made by any party under Order 24, Rule 2, the period of 14 days referred to in paragraph (1) of that Rule is extended, whether by consent or by order of the Court or both by consent and by order, paragraph (1) shall have effect in relation to that action as if for the reference therein to one month after the pleadings in the action are deemed to be closed there were substituted a reference to 14 days after the expiration of the period referred to in paragraph (1) of the said Rule 2 as so extended.

(4) If the plaintiff does not take out a summons for directions in accordance with paragraphs (1) to (3), the defendant or any defendant may do so or apply for an order to dismiss the action.

(5) On an application by a defendant to dismiss the action under paragraph (4), the Court may either dismiss the action on such terms as may be just or deal with the application as if it were a summons for directions.

(6) In the case of an action which is proceeding only as respects a counterclaim, references in this Rule to the plaintiff and defendant shall be construed respectively as references to the party making the counterclaim and the defendant to the counterclaim.

Duty to consider all matters (O. 25, r. 2).

2.—(1) When the summons for directions first comes to be heard, the Court shall consider whether —

- (a) it is possible to deal then with all the matters which, by Rules 3 to 7, are required to be considered on the hearing of the summons for directions; or
- (b) it is expedient to adjourn the consideration of all or any of those matters until a later stage.

(2) If when the summons for directions first comes to be heard, the Court considers that it is possible to deal then with all the said matters, it shall deal with them forthwith and shall endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are also then dealt with.

(3) If, when the summons for directions first comes to be heard, the Court considers that it is expedient to adjourn the consideration of all or any of the matters which, by Rules 3 to 7, are required to be considered on the hearing of the summons, the Court shall deal forthwith with such of those matters as it considers can conveniently be dealt with forthwith and adjourn the consideration of the remaining matters and shall endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are dealt with either then or at a resumed hearing of the summons for directions.

(4) If, on the summons for directions, an action is ordered to be transferred to the Subordinate Courts, nothing in this Order shall be construed as requiring the Court to make any further order on the summons.

(5) If, on the summons for directions, the action or any question or issue therein is ordered to be tried before the Registrar, the Court may, without giving any further directions, adjourn the summons so that it can be heard by the Registrar, and the party required to apply to the Registrar for directions may do so by notice without taking out a fresh summons.

(6) If the hearing of the summons for directions is adjourned without a day being fixed for the resumed hearing thereof, any party may restore it to the list on two days' notice to the other parties.

Particular matters for consideration (O. 25, r. 3).

3.—(1) On the hearing of the summons for directions, the Court shall consider the appropriate orders or directions that should be made to simplify and to expedite the proceedings and particularly —

- (a) the period within which the parties have to file and to exchange affidavits of the evidence in chief of all witnesses named in the summons for directions who may give evidence at the trial and the bundles of documents referred to therein;
- (b) whether the number of witnesses shall be limited to those specified in the order and whether the evidence in chief of the witnesses specified be each limited to a single affidavit;
- (c) the mode in which the evidence in chief shall be given by any witness from whom a party is unable on sufficient cause being shown to obtain an affidavit of that witness's evidence in chief and the manner in which the said evidence shall be disclosed to the other parties prior to the trial;
- (d) whether an order should be made limiting the number of expert witnesses;
- (e) the mode in which the evidence in chief of an expert witness shall be given;

- (f) the manner in which the evidence in chief or the substance thereof of an expert witness shall be disclosed to the other parties;
- (g) whether a “without prejudice” meeting should be held among experts prior to the trial with a view towards the preparation of a joint statement indicating the agreed evidence and the areas in issue;
- (h) the period within which objections to the contents of the affidavit or other evidence of a witness must be taken; and
- (i) whether any orders should be made pursuant to Order 20, Rule 5, Order 38, Rules 2 to 7 and Order 70, Rule 25 (3).

(2) Where any party fails to comply with the Court’s directions for the filing and exchange of affidavits, an application may be made by summons at any time after the default for an order to enter judgment or to dismiss the action, as the case may be, or for such other order as to costs or otherwise that the Court thinks just in the circumstances.

Admissions and agreements to be made (O. 25, r. 4).

4. At the hearing of the summons for directions, the Court shall endeavour to secure that the parties make all admissions and all agreements as to the conduct of the proceedings which ought reasonably to be made by them and may cause the order on the summons to record any admissions or agreements so made, and (with a view to such special order, if any, as to costs as may be just being made at the trial) any refusal to make any admission or agreement.

Limitation of right of appeal (O. 25, r. 5).

5. Nothing in Rule 4 shall be construed as requiring the Court to endeavour to secure that the parties shall agree to exclude or limit any right of appeal, but the order made on the summons for directions may record any such agreement.

Duty to give all information at hearing (O. 25, r. 6).

6.—(1) Subject to paragraph (2), no affidavit shall be used on the hearing of the summons for directions except by the leave or direction of the Court, but, subject to paragraph (4), it shall be the duty of the parties to the action and their solicitors to give all such information and produce all such documents on any hearing of the summons as the Court may reasonably require for the purposes of enabling it properly to deal with the summons. The Court may, if it appears proper to do so in the circumstances, authorise any such information or documents to be given or produced to the Court without being disclosed to the other parties but, in the absence of such authority, any information or document given

or produced under this paragraph shall be given or produced to all the parties present or represented on the hearing of the summons as well as to the Court.

(2) No leave shall be required by virtue of paragraph (1) for the use of an affidavit by any party on the hearing of the summons for directions in connection with any application thereat for any order if, under any of these Rules, an application for such an order is required to be supported by an affidavit.

(3) If the Court on any hearing of the summons for directions requires a party to the action or his solicitor or counsel to give any information or produce any document and that information or document is not given or produced, then, subject to paragraph (4), the Court may —

- (a) cause the facts to be recorded in the order with a view to such special order, if any, as to costs as may be just being made at the trial; or
- (b) if it appears to the Court to be just to do so, order the whole or any part of the pleadings of the party concerned to be struck out, or, if the party is plaintiff or the claimant under a counterclaim, order the action or counterclaim to be dismissed on such terms as may be just.

(4) Notwithstanding anything in paragraphs (1) to (3), no information or documents which are privileged from disclosure shall be required to be given or produced under this Rule by or by the solicitors of any party otherwise than with the consent of that party.

Duty to make all interlocutory applications on summons for directions (O. 25, r. 7).

7.—(1) Any party to whom the summons for directions is addressed must so far as practicable apply at the hearing of the summons for any order or directions which he may desire as to any matter capable of being dealt with on an interlocutory application in the action and must, not less than 7 days before the hearing of the summons, serve on the other parties a notice in Form 47 specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

(2) If the hearing of the summons for directions is adjourned and any party to the proceedings desires to apply at the resumed hearing for any order or directions not asked for by the summons or in any notice given under paragraph (1), he must, not less than 7 days before the resumed hearing of the summons, serve on the other parties a notice specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons or in any such notice.

(3) Any application subsequent to the summons for directions and before judgment as to any matter capable of being dealt with on an interlocutory application in the action must be made under the summons by two clear days' notice to the other party stating the grounds of the application.

Automatic directions (O. 25, r. 8).

8.—(1) When the pleadings in any action to which this Rule applies are deemed to be closed, the following directions shall take effect automatically:

- (a) there shall be discovery of documents within 14 days in accordance with Order 24, Rule 2, and inspection within 7 days thereafter, except that where liability is admitted, discovery shall be limited to disclosure by the plaintiff of any document relating to damages;
- (b) subject to paragraph (3) where any party intends to place reliance at the trial on expert evidence, he shall, within 4 months, disclose the substance of that evidence to the other parties in the form of a written report, which shall be agreed if possible;
- (c) where any party intends to call any witness at the trial for the purpose of proving any photograph, sketch plan, or model or the condition of a vehicle or the maintenance or operation of traffic lights or any other evidence of a formal nature, he shall, within 4 months, disclose the evidence thereof to the other parties;
- (d) photographs, sketch plans, models and the contents of any police accident report shall be agreed if possible;
- (e) subject to sub-paragraphs (b) and (c), the parties shall, within 4 months, file and exchange affidavits of the evidence in chief of all witnesses except any witness referred to in sub-paragraphs (b) and (c); and
- (f) the evidence in chief of all witnesses shall be limited to one affidavit for each witness;
- (g) the number of witnesses shall be limited in any case to those who have deposed their evidence in chief by way of affidavit;
- (h) the action shall be set down within 6 months;
- (i) the Court shall be notified, on setting down, of the estimated length of trial; and
- (j) the party setting down the action shall certify that the provisions of this Rule have been complied with.

(2) Nothing in paragraph (1) shall require a party to produce a further medical report if he proposes to rely at the trial only on the report provided pursuant to Order 18, Rule 12 (1A) or (1B) but, where a party claiming damages for personal injuries discloses a further report, that report shall be accompanied by a statement of the special damages claimed and, in this paragraph, “statement of the special damages claimed” has the same meaning as in Order 18, Rule 12 (1C).

(3) Where paragraph (1) (b) applies to more than one party, the reports shall be disclosed by mutual exchange, medical for medical and non-medical for non-medical, within the time provided or as soon thereafter as the reports on each side are available.

(4) Nothing in paragraph (1) shall prevent any party to an action to which this Rule applies from applying to the Court for such further or different directions or orders as may, in the circumstances, be appropriate.

(5) For the purpose of this Rule documents relating to special damages include documents relating to any industrial disablement or sickness benefit rights, and where the claim is made under section 12 of the Civil Law Act (Chapter 43), include documents relating to any claim for dependency on the deceased.

(6) This Rule shall apply to —

(a) any action for personal injuries except —

(i) any admiralty action; and

(ii) any action where the pleadings contain an allegation of a negligent act or omission in the course of medical or dental treatment; and

(b) any action arising out of an accident on land due to a collision or an apprehended collision.

Affidavits of evidence-in-chief and exhibits (O. 25, r. 9).

9.—(1) Affidavits of the evidence-in-chief of witnesses ordered or required to be filed pursuant to this Order need not exhibit or annex a copy of documents referred to therein, but such documents shall be filed as part of the respective parties’ bundle of documents.

(2) Where it is necessary to refer to any document, the affidavits referred to in paragraph (1) shall make reference to the bundle of documents filed by the respective parties.

(3) Documents contained in such bundles must be arranged chronologically or in some logical order and must be paginated.

(4) Care must be taken to avoid duplication within the same bundle.

ORDER 26

INTERROGATORIES

Discovery by interrogatories (O. 26, r. 1).

1.—(1) A party to any cause or matter may, in accordance with the following provisions of this Order, serve on any other party interrogatories relating to any matter in question between the applicant and that other party in the cause or matter which are necessary either —

- (a) for disposing fairly of the cause or matter; or
- (b) for saving costs.

(2) Without prejudice to the provisions of paragraph (1), a party may apply to the Court for an order giving him leave to serve on any other party interrogatories relating to any matter in question between the applicant and that other party in the cause or matter.

(3) A proposed interrogatory which does not relate to such a matter as is mentioned in paragraph (1) may not be administered notwithstanding that it might be admissible in oral cross-examination of a witness.

(4) In this Order —

“interrogatories without order” means interrogatories served under paragraph (1);

“ordered interrogatories” means interrogatories served under paragraph (2) or interrogatories which are required to be answered pursuant to an order made on an application under Rule 3 (2) and, where such an order is made, the interrogatories shall not, unless the Court orders otherwise, be treated as interrogatories without order for the purposes of Rule 3 (1).

(5) Unless the context otherwise requires, the provisions of this Order shall apply to both interrogatories without order and ordered interrogatories.

Form and nature of interrogatories (O. 26, r. 2).

2.—(1) Where interrogatories are served, a note at the end of the interrogatories shall specify —

- (a) a period of time (not being less than 28 days from the date of service) within which the interrogatories are to be answered;
- (b) where the party to be interrogated is a body corporate or unincorporate which is empowered by law to sue or be sued whether in its own name or in the name of an officer or other person, the officer or member on whom the interrogatories are to be served; and

- (c) where the interrogatories are to be served on two or more parties or are required to be answered by an agent or servant of a party, which of the interrogatories each party or, as the case may be, an agent or servant is required to answer, and which agent or servant.

(2) Subject to Rule 5 (1), a party on whom interrogatories are served shall, unless the court orders otherwise on an application under Rule 3 (2), be required to give within the period specified under Rule 2 (1) (a) answers, which shall (unless the court otherwise directs) be on affidavit.

(3) Interrogatories without order when served shall be in Form 49 save for the reference to an Order of Court. The answer to interrogatories without order shall be in Form 51 save for the reference to an Order of Court.

(4) Ordered interrogatories when served shall be in Form 49. The order for interrogatories shall be in Form 50 and the answers to ordered interrogatories shall be in Form 51.

Interrogatories without Order (O. 26, r. 3).

3.—(1) Interrogatories without order may be served on a party not more than twice.

(2) A party on whom interrogatories without order are served may, within 14 days of the service of the interrogatories, apply to the Court for the interrogatories to be varied or withdrawn and, on any such application, the Court may make such order as it thinks fit (including an order that the party who served the interrogatories shall not serve further interrogatories without order).

(3) Interrogatories without order shall not be served on the Government.

Ordered interrogatories (O. 26, r. 4).

4.—(1) Where an application is made for leave to serve interrogatories, a copy of the proposed interrogatories shall be served with the summons in Form 46 or 48 or the notice under Order 25, Rule 7, as the case may be, by which the application is made.

(2) In deciding whether to give leave to serve interrogatories, the Court shall take into account any offer made by the party to be interrogated to give particulars, make admissions or produce documents relating to any matter in question and whether or not interrogatories without order have been administered.

Objections and insufficient answers (O. 26, r. 5).

5.—(1) Without prejudice to Rule 3 (2), where a person objects to answering any interrogatory on the ground of privilege, he may take the objection in his answer.

(2) Where any person, on whom ordered interrogatories have been served, answers any of them insufficiently, the Court may make an order requiring him to make a further answer, either by affidavit or on oral examination as the Court may direct.

(3) Where any person, on whom interrogatories without order have been served, answers any of them insufficiently, the party serving the interrogatories may ask for further and better particulars of the answer given and any such request shall not be treated as service of further interrogatories for the purposes of Rule 3 (1).

Failure to comply with Order (O. 26, r. 6).

6.—(1) If a party fails to answer interrogatories or to comply with an order made under Rule 5 (2) or a request made under Rule 5 (3), the Court may make such order as it thinks just including, in particular, an order that the action be dismissed or, as the case may be, an order that the defence be struck out and judgment be entered accordingly.

(2) Without prejudice to paragraph (1), where a party fails to answer ordered interrogatories or to comply with an order made under Rule 5 (2), he shall be liable to committal.

(3) Service on a party's solicitor of an order to answer interrogatories made against the party shall be sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that he had no notice or knowledge of the order.

(4) A solicitor, on whom an order to answer interrogatories made against his client is served and who fails without reasonable excuse to give notice thereof to his client, shall be liable to committal.

Use of answers to interrogatories at trial (O. 26, r. 7).

7. A party may put in evidence at the trial of a cause or matter, or of any issue therein, some only of the answers to interrogatories, or part only of such answer, without putting in evidence the other answers or, as the case may be, the whole of that answer, but the Court may look at the whole of the answers and if of opinion that any other answer or other part of an answer is so connected with an answer or part thereof used in evidence that the one ought not to be so used without the other, the Court may direct that that other answer or part shall be put in evidence.

Revocation and variation of Orders (O. 26, r. 8).

8. Any order made under this Order (including an order made on appeal) may, on sufficient cause being shown, be revoked or varied by a subsequent order or direction of the Court made or given at or before the trial of the cause or matter in connection with which the original order was made.

ORDER 26A**INTERROGATORIES BEFORE ACTION, ETC****Interrogatories against other person (O. 26A, r. 1).**

1.—(1) An application for an order to administer interrogatories before the commencement of proceedings shall be made by originating summons (in Form 7) and the person against whom the order is sought shall be made defendant to the summons.

(2) An application after the commencement of proceedings for an order to administer interrogatories to a person who is not a party to the proceedings shall be made by summons, which must be served on that person personally and on every party to the proceedings.

(3) The summons under paragraph (1) or (2) shall be supported by an affidavit which must —

(a) in the case of a summons under paragraph (1), state the grounds for the application, the material facts pertaining to the intended proceedings and whether the person against whom the order is sought is likely to be party to subsequent proceedings in the High Court or Subordinate Courts as the case may be; and

(b) in any case, specify the interrogatories to be administered and show, if practicable by reference to any pleading served or intended to be served in the proceedings that the answers to the interrogatories are relevant to an issue arising or likely to arise out of the claim made or likely to be made in the proceedings.

(4) A copy of the supporting affidavit shall be served with the summons on every person on whom the summons is required to be served.

Interrogatories to be ordered only if necessary (O. 26A, r. 2).

2. On the hearing of an application for an order under Rule 1, the Court, if satisfied that interrogatories are not necessary, or not necessary at that stage of the cause or matter, may dismiss or, as the case may be, adjourn the application and shall in any case refuse to make such an order if and so

far as it is of opinion that interrogatories are not necessary either for disposing fairly of the cause or matter or for saving costs.

Security for costs (O. 26A, r. 3).

3. An order to administer interrogatories may be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just.

Form, objections, failure to comply, etc. (O. 26A, r. 4).

4. Order 26, Rule 2 (except Rule 2 (3)), and Rules 4 to 8 (except Rule 5 (3)) shall, with the necessary modifications, apply to this Order.

Costs (O. 26A, r. 5).

5. Unless the Court orders otherwise, where an application is made in accordance with this Order, the person against whom the order is sought shall be entitled to his costs of the application, and of complying with any order made thereon on an indemnity basis.

ORDER 27

ADMISSIONS

Admission of case of other party (O. 27, r. 1).

1. Without prejudice to Order 18, Rule 13, a party to a cause or matter may give notice, by his pleading or otherwise in writing, that he admits the truth of the whole or any part of the case of any other party.

Notice to admit facts (O. 27, r. 2).

2.—(1) A party to a cause or matter may not later than 14 days after the cause or matter is set down for trial serve on any other party a notice requiring him to admit, for the purpose of that cause or matter only, the facts specified in the notice.

(2) An admission made in compliance with a notice under this Rule shall not be used against the party by whom it was made in any cause or matter other than the cause or matter for the purpose of which it was made or in favour of any person other than the person by whom the notice was given, and the Court may at any time allow a party to amend or withdraw an admission so made by him on such terms as may be just.

(3) A notice to admit facts under paragraph (1) must be in Form 52 and an admission of facts under paragraph (2) in Form 53.

Judgment on admission of facts (O. 27, r. 3).

3. Where admissions of fact are made by a party to a cause or matter either by his pleadings or otherwise, any other party to the cause or matter may apply to the Court for such judgment or order as upon those admissions he may be entitled to, without waiting for the determination of any other question between the parties, and the Court may give such judgment, or make such order, on the application as it thinks just.

Admission and production of documents specified in list of documents (O. 27, r. 4).

4.—(1) Subject to paragraph (2) and without prejudice to the right of a party to object to the admission in evidence of any document, a party on whom a list of documents is served in pursuance of any provision of Order 24 shall, unless the Court otherwise orders, be deemed to admit —

(a) that any document described in the list as an original document is such a document and was printed, written, signed or executed as it purports respectively to have been; and

(b) that any document described therein as a copy is a true copy.

This paragraph does not apply to a document the authenticity of which the party has denied in his pleading.

(2) If before the expiration of 14 days after inspection of the documents specified in a list of documents or after the time limited for inspection of those documents expires, whichever is the later, the party to whom the list is served serves on the party whose list it is a notice stating, in relation to any documents specified therein, that he does not admit the authenticity of that document and requires it to be proved at the trial, he shall not be deemed to make any admission in relation to that document under paragraph (1).

(3) A party to a cause or matter by whom a list of documents is served on any other party in pursuance of any provision of Order 24 shall be deemed to have been served by that other party with a notice requiring him to produce at the trial of the cause or matter such of the documents specified in the list as are in his possession, custody or power.

(4) Paragraphs (1) to (3) apply in relation to an affidavit made in compliance with an order under Order 24, Rule 7, as they apply in relation to a list of documents served in pursuance of any provision of that Order.

Notices to admit or produce documents (O. 27, r. 5).

5.—(1) Except where Rule 4 (1) applies, a party to a cause or matter may within 14 days after the cause or matter is set down for trial serve on any other party a notice requiring him to admit the authenticity of the documents specified in the notice.

(2) If a party on whom a notice under paragraph (1) is served desires to challenge the authenticity of any document therein specified he must, within 14 days after service of the notice, serve on the party by whom it was given a notice stating that he does not admit the authenticity of the document and requires it to be proved at the trial.

(3) A party who fails to give a notice of non-admission in accordance with paragraph (2) in relation to any document shall be deemed to have admitted the authenticity of that document unless the Court otherwise orders.

(4) Except where Rule 4 (3) applies, a party to a cause or matter may serve on any other party a notice requiring him to produce the documents specified in the notice at the trial of the cause or matter.

(5) A notice to admit, a notice of non-admission and a notice to produce documents shall be in Forms 54, 55 and 56 respectively.

ORDER 28**ORIGINATING SUMMONS PROCEDURE****Application (O. 28, r. 1).**

1. This Order applies to all originating summonses subject, in the case of originating summonses of any particular class, to any special provisions relating to originating summonses of that class made by these Rules or by any written law; and, subject as aforesaid, Order 32, Rule 5, shall apply in relation to originating summonses as it applies in relation to other summonses.

Fixing time for attendance of parties before Court (O. 28, r. 2).

2.—(1) Where, in the case of an originating summons to which appearance is required to be entered, any defendant served with the summons has entered, or has within the time limited for appearing failed to enter, an appearance, the plaintiff may —

- (a) if no appearance has been entered, after the time limited for appearing shall have expired;
- (b) after the defendant has filed the affidavit or affidavits under Rule 3 (4); or

- (c) if no such affidavit has been filed, after the time limited for filing such affidavit shall have expired,

as the case may be, apply for an appointment for the attendance of the parties before the Court for the hearing of the summons, and a day and time for their attendance shall be fixed by a notice in Form 57 sealed with the seal of the Supreme Court or the Subordinate Courts as the case may be.

(2) Subject to Rule 3 (2) and (4), a date and time for the attendance of the parties before the Court for the hearing of an originating summons to which appearance is not required to be entered, or for the hearing of an ex parte originating summons, may be fixed on the application of the plaintiff or applicant, as the case may be.

(3) Where a plaintiff fails to apply for an appointment under paragraph (1), any defendant may, with the leave of the Court, obtain an appointment in accordance with that paragraph provided that he has entered an appearance.

Notice of first hearing, etc. (O. 28, r. 3).

3.—(1) The party, on whose application the date was fixed for the attendance of the parties before the Court for the hearing of an originating summons to which appearance is required to be entered, must serve a copy of the notice fixing it on every other party who has entered an appearance and, if the first-mentioned party is a defendant, on the plaintiff, within 3 days after the notice has been issued.

(2) Where the plaintiff intends to adduce evidence in support of an originating summons he must do so by affidavit, and must file the affidavit or affidavits and serve a copy thereof on every defendant not later than 7 days after the service of the originating summons (whether or not such defendant has entered an appearance and whether or not the summons is one to which an appearance is required to be entered).

(3) In the case of an ex parte originating summons, the applicant must file an affidavit or affidavits in support at the time of filing of the originating summons.

(4) Where the defendant intends to adduce evidence with reference to the originating summons served on him, he must also do so by affidavit and the affidavit or affidavits must be filed and a copy thereof must be served on the plaintiff not later than 21 days after being served with a copy of the affidavit or affidavits by the plaintiff under paragraph (2).

(5) No further affidavit shall be received in evidence without leave of the Court.

Directions, etc., by Court (O. 28, r. 4).

4.—(1) The Court by whom an originating summons is heard may, if the liability of the defendant to the plaintiff in respect of any claim made by the plaintiff is established, make such order in favour of the plaintiff as the nature of the case may require, but where the Court makes an order under this paragraph against a defendant who does not appear at the hearing, the order may be varied or revoked by a subsequent order of the Court on such terms as it thinks just.

(2) Unless on the first hearing of an originating summons the Court disposes of the summons altogether or orders the cause or matter begun by it to be transferred to a District Court or makes an order under Rule 8, the Court shall give such directions as to the further conduct of the proceedings as it thinks best adapted to secure the just, expeditious and economical disposal thereof.

(3) Without prejudice to the generality of paragraph (2), the Court shall, at as early a stage of the proceedings on the summons as appears to it to be practicable, consider whether there is or may be a dispute as to fact and whether the just, expeditious and economical disposal of the proceedings can accordingly best be secured by hearing the summons on oral evidence or mainly on oral evidence and, if it thinks fit, may order that no further evidence shall be filed and that the summons shall be heard on oral evidence or partly on oral evidence and partly on affidavit evidence, with or without cross-examination of any of the deponents, as it may direct.

(4) Without prejudice to the generality of paragraph (2), and subject to paragraph (3), the Court may give directions as to the filing of evidence and as to the attendance of deponents for cross-examination and any other directions.

Adjournment of summons (O. 28, r. 5).

5.—(1) The hearing of the summons by the Court may (if necessary) be adjourned from time to time, either generally or to a particular date, as may be appropriate, and the powers of the Court under Rule 4 may be exercised at any resumed hearing.

(2) If the hearing of the summons is adjourned generally, the party on whose application the day for its hearing was fixed under Rule 2 may restore it to the list on two days' notice to all the other parties (except a defendant who has failed to enter an appearance or, if the summons is one to which an appearance is not required, has not been served with the summons), and any of those parties may restore it with the leave of the Court.

Application affecting party in default of appearance (O. 28, r. 6).

6. Where in a cause or matter begun by originating summons an application is made to the Court for an order affecting a party who has failed to enter an appearance, the Court hearing the application may require to be satisfied in such manner as it thinks fit that the party is in default of appearance.

Counterclaim by defendant (O. 28, r. 7).

7.—(1) A defendant to an action begun by originating summons who has entered an appearance to the summons and who alleges that he has any claim or is entitled to any relief or remedy against the plaintiff in respect of any matter (whenever and however arising) may make a counterclaim in the action in respect of that matter instead of bringing a separate action.

(2) A defendant who wishes to make a counterclaim under this Rule must at the first or any resumed hearing of the originating summons by the Court, but, in any case, at as early a stage in the proceedings as is practicable, inform the Court of the nature of his claim and, without prejudice to the powers of the Court under paragraph (3), the claim shall be made in such manner as the Court may direct under Rule 4 or 8.

(3) If it appears on the application of a plaintiff against whom a counterclaim is made under this Rule that the subject-matter of the counterclaim ought for any reason to be disposed of by a separate action, the Court may order the counterclaim to be struck out or may order it to be tried separately or make such other order as may be expedient.

Continuation of proceedings as if cause or matter begun by writ (O. 28, r. 8).

8.—(1) Where, in the case of a cause or matter begun by originating summons, it appears to the Court at any stage of the proceedings that the proceedings should for any reason be continued as if the cause or matter had been begun by writ, it may order the proceedings to continue as if the cause or matter had been so begun and may, in particular, order that pleadings shall be delivered or that any affidavits shall stand as pleadings, with or without liberty to any of the parties to add thereto or to apply for particulars thereof.

(2) Where the Court decides to make such an order, Order 25, Rules 2 to 7, shall, with the omission of so much of Rule 7 (1) as requires parties to serve a notice specifying the orders and directions which they require and with any other necessary modifications, apply as if there had been a summons for directions in the proceedings and that order were one of the orders to be made thereon.

(3) This Rule applies notwithstanding that the cause or matter in question could not have been begun by writ.

(4) Any reference in these Rules to an action begun by writ shall, unless the context otherwise requires, be construed as including a reference to a cause or matter proceedings in which are ordered under this Rule to continue as if the cause or matter had been so begun.

Order for hearing or trial (O. 28, r. 9).

9.—(1) Except where the Court disposes of a cause or matter begun by originating summons in Chambers or orders it to be transferred to a District Court or makes an order in relation to it under Rule 8 or some other provision of these Rules, the Court shall, on being satisfied that the cause or matter is ready for determination, make an order for the hearing or trial thereof in accordance with this Rule.

(2) Order 34, Rules 1 to 5, shall apply in relation to a cause or matter begun by originating summons and to an order made therein under this Rule as they apply in relation to an action begun by writ and shall have effect accordingly with the necessary modifications and with the further modification that for references therein to the summons for directions there shall be substituted references to the first or any resumed hearing of the originating summons by the Court.

Failure to prosecute proceedings with despatch (O. 28, r. 10).

10.—(1) If the plaintiff in a cause or matter begun by originating summons makes default in complying with any order or direction of the Court as to the conduct of the proceedings, or if the Court is satisfied that the plaintiff in a cause or matter so begun is not prosecuting the proceedings with due despatch, the Court may order the cause or matter to be dismissed or may make such other order as may be just.

(2) Paragraph (1) shall, with any necessary modifications, apply in relation to a defendant by whom a counterclaim is made under Rule 7 as it applies in relation to a plaintiff.

(3) Where, by virtue of an order made under Rule 8, proceedings in a cause or matter begun by originating summons are to continue as if the cause or matter had been begun by writ, paragraphs (1) and (2) shall not apply in relation to the cause or matter after the making of the order.

Abatement, etc., of action (O. 28, r. 11).

11. Order 34, Rule 6, shall apply in relation to an action begun by originating summons as it applies in relation to an action begun by writ.

ORDER 29INTERLOCUTORY INJUNCTIONS, INTERIM PRESERVATION
OF PROPERTY, INTERIM PAYMENTS, ETC.**Application for injunction (O. 29, r. 1).**

1.—(1) An application for the grant of an injunction may be made by any party to a cause or matter before or after the trial of the cause or matter, whether or not a claim for the injunction was included in that party's writ, originating summons, counterclaim or third party notice, as the case may be.

(2) Such application may be made by summons supported by an affidavit and where the case is one of urgency, may be made *ex parte*.

(3) The plaintiff may not make such an application before the issue of the writ or originating summons by which the cause or matter is to be begun except where the case is one of urgency, and in that case the injunction applied for may be granted on terms providing for the issue of the writ or summons and such other terms, if any, as the Court thinks fit.

(4) An order for interim injunction must be in Form 58.

Detention, preservation, etc., of subject-matter of cause or matter (O. 29, r. 2).

2.—(1) On the application of any party to a cause or matter, the Court may make an order for the detention, custody or preservation of any property which is the subject-matter of the cause or matter, or as to which any question may arise therein, or for the inspection of any such property in the possession of a party to the cause or matter.

(2) For the purpose of enabling any order under paragraph (1) to be carried out, the Court may by the order authorise any person to enter upon any immovable property in the possession of any party to the cause or matter.

(3) Where the right of any party to a specific fund is in dispute in a cause or matter, the Court may, on the application of a party to the cause or matter, order the fund to be paid into Court or otherwise secured.

(4) An order under this Rule may be made on such terms, if any, as the Court thinks just.

(5) An application for an order under this Rule must be made by summons.

(6) Unless the Court otherwise directs, an application by a defendant for such an order may not be made before he enters an appearance.

Power to order samples to be taken, etc. (O. 29, r. 3).

3.—(1) Where it considers it necessary or expedient for the purpose of obtaining full information or evidence in any cause or matter, the Court may, on the application of a party to the cause or matter, and on such terms, if any, as it thinks just, by order authorise or require any sample to be taken of any property which is the subject-matter of the cause or matter or as to which any question may arise therein, any observation to be made on such property or any experiment to be tried on or with such property.

(2) For the purpose of enabling any order under paragraph (1) to be carried out, the Court may by the order authorise any person to enter upon any immovable property in the possession of any party to the cause or matter.

(3) Rule 2 (5) and (6) shall apply in relation to an application for an order under this Rule as they apply in relation to an application for an order under that Rule.

Sale of perishable property, etc. (O. 29, r. 4).

4.—(1) The Court may, on the application of any party to a cause or matter, make an order for the sale by such person, in such manner and on such terms (if any) as may be specified in the order of any movable property which is the subject-matter of the cause or matter or as to which any question arises therein and which is of a perishable nature or likely to deteriorate if kept or which for any other good reason it is desirable to sell forthwith.

(2) Rule 2 (5) and (6) shall apply in relation to an application for an order under this Rule as they apply in relation to an application for an order under that Rule.

Order for early trial (O. 29, r. 5).

5. Where on the hearing of an application, made before the trial of a cause or matter, for an injunction or the appointment of a receiver or an order under Rule 2, 3 or 4, it appears to the Court that the matter in dispute can be better dealt with by an early trial than by considering the whole merits thereof for the purposes of the application, the Court may make an order accordingly and may also make such order as respects the period before trial as the justice of the case requires.

Recovery of movable property subject to lien, etc. (O. 29, r. 6).

6. Where the plaintiff, or the defendant by way of counterclaim, claims the recovery of specific movable property and the party from whom recovery is sought does not dispute the title of the party making the claim but claims to be entitled to retain the property by virtue of a lien or otherwise as security for any sum of money, the Court, at any time after the claim to be so entitled appears from the pleadings (if any) or by affidavit or

otherwise to its satisfaction, may order that the party seeking to recover the property be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the security is claimed and such further sum (if any) for interest and costs as the Court may direct and that, upon such payment being made, the property claimed be given up to the party claiming it, but subject to the provisions of the Exchange Control Act (Chapter 99).

Directions (O. 29, r. 7).

7.—(1) Where an application is made under any of the foregoing provisions of this Order, the Court may give directions as to the further proceedings in the cause or matter.

(2) If, in an action begun by writ, not being any such action as is mentioned in Order 25, Rule 1 (2) (a) to (c) and (e) to (g), the Court thinks fit to give directions under this Rule before the summons for directions, Rules 2 to 7 of that Order shall, with the omission of so much of Rule 7 (1) as requires parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application were a summons for directions.

Allowance of income of property pendente lite (O. 29, r. 8).

8. Where any movable or immovable property forms the subject-matter of any proceedings, and the Court is satisfied that it will be more than sufficient to answer all the claims thereon for which provision ought to be made in the proceedings, the Court may at any time allow the whole or part of the income of the property to be paid, during such period as it may direct, to all or any of the parties who have an interest therein or may direct that any part of the movable property be transferred or delivered to all or any of such parties.

Interpretation of “interim payments” (O. 29, r. 9).

9. For the purposes of Rules 10 to 18, “interim payments”, in relation to a defendant, means a payment on account of any damages, debt or other sum (excluding costs) which he may be held liable to pay to or for the benefit of the plaintiff; and any reference to the plaintiff or defendant includes a reference to any person who, for the purpose of the proceedings, acts as next friend of the plaintiff or guardian of the defendant.

Application for interim payment (O. 29, r. 10).

10.—(1) The plaintiff may, at any time after the writ has been served on a defendant and the time limited for him to enter appearance has expired, apply to the Court for an order requiring that defendant to make an interim payment.

(2) An application under this Rule shall be made by summons but may be included in a summons for summary judgment under Order 14.

(3) An application under this Rule shall be supported by an affidavit which shall —

- (a) verify the amount of the damages, debt or other sum to which the application relates and the grounds of the application;
- (b) exhibit any documentary evidence relied on by the plaintiff in support of the application; and
- (c) if the plaintiff's claim is made under the Civil Law Act (Chapter 43), contain the particulars mentioned in section 12 (6) of that Act.

(4) The summons and the affidavit or affidavits in support must be filed at the same time, and must be served on the defendant against whom the order is sought within 3 days from the date of filing.

(5) Notwithstanding the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown.

Order for interim payment in respect of damages (O. 29, r. 11).

11.—(1) If, on the hearing of an application under Rule 10 in an action for damages, the Court is satisfied —

- (a) that the defendant against whom the order is sought (referred to in this paragraph as the respondent) has admitted liability for the plaintiff's damages;
- (b) that the plaintiff has obtained judgment against the respondent for damages to be assessed; or
- (c) that, if the action proceeded to trial, the plaintiff would obtain judgment for substantial damages against the respondent or, where there are two or more defendants, against any one or more of them,

the Court may, if it thinks fit and subject to paragraph (2), order the respondent to make an interim payment of such amount as it thinks just, not exceeding a reasonable proportion of the damages which in the opinion of the Court are likely to be recovered by the plaintiff after taking into account any relevant contributory negligence and any set-off, cross-claim or counterclaim on which the respondent may be entitled to rely.

(2) No order shall be made under paragraph (1) in an action for personal injuries if it appears to the Court that the defendant is not a person falling within one of the following categories:

- (a) a person who is insured in respect of the plaintiff's claim; or
- (b) a person whose means and resources are such as to enable him to make the interim payment.

Order for interim payment in respect of sums other than damages (O. 29, r. 12).

12. If, on the hearing of an application under Rule 10, the Court is satisfied —

- (a) that the plaintiff has obtained an order for an account to be taken as between himself and the defendant and for any amount certified due on taking the account to be paid;
- (b) that the plaintiff's action includes a claim for possession of land and, if the action proceeded to trial, the defendant would be held liable to pay to the plaintiff a sum of money in respect of the defendant's use and occupation of the land during the pendency of the action, even if a final judgment or order were given or made in favour of the defendant; or
- (c) that, if the action proceeded to trial, the plaintiff would obtain judgment against the defendant for a substantial sum of money apart from any damages or costs,

the Court may, if it thinks fit, and without prejudice to any contentions of the parties as to the nature or character of the sum to be paid by the defendant, order the defendant to make an interim payment of such amount as it thinks just, after taking into account any set-off, cross-claim or counterclaim on which the defendant may be entitled to rely.

Manner of payment (O. 29, r. 13).

13.—(1) Subject to Order 76, Rule 12, the amount of any interim payment ordered to be made shall be paid to the plaintiff unless the order provides for it to be paid into Court, and where the amount is paid into Court, the Court may, on the application of the plaintiff, order the whole or any part of it to be paid out to him at such time or times as the Court thinks fit.

(2) An application under paragraph (1) for money in Court to be paid out may be made *ex parte*, but the Court may direct that the application be served on any other party.

(3) An interim payment may be ordered to be made in one sum or by such instalments as the Court thinks fit.

(4) Where a payment is ordered in respect of the defendant's use and occupation of land, the order may provide for periodical payments to be made during the pendency of the action.

Directions on application under Rule 10 (O. 29, r. 14).

14. Where an application is made under Rule 10, the Court may give directions as to the further conduct of the action, and, so far as may be applicable, Order 25, Rules 2 to 7, shall, with the omission of so much of Rule 7 (1) as requires the parties to serve a notice specifying the orders and

directions which they require and with any other necessary modifications, apply as if the application were a summons for directions, and, in particular, the Court may order an early trial of the action.

Non-disclosure of interim payment (O. 29, r. 15).

15. The fact that an order has been made under Rule 11 or 12 shall not be pleaded and, unless the defendant consents or the Court so directs, no communication of that fact or of the fact that an interim payment has been made, whether voluntarily or pursuant to an order, shall be made to the Court at the trial, or hearing, of any question or issue as to liability or damages until all questions or liability and amount have been determined.

Payment into Court, etc., in satisfaction (O. 29, r. 16).

16. Where, after making an interim payment, whether voluntarily or pursuant to an order, a defendant pays a sum of money into Court under Order 22, Rule 1, or makes an offer to settle under Order 22A, Rule 1, as the case may be, the notice of payment must state that the defendant has taken into account the interim payment.

Adjustment on final judgment or order or on discontinuance (O. 29, r. 17).

17. Where a defendant has been ordered to make an interim payment or has in fact made an interim payment, whether voluntarily or pursuant to an order, the Court may, in giving or making a final judgment or order, or granting the plaintiff leave to discontinue his action or to withdraw the claim in respect of which the interim payment has been made, or at any other stage of the proceedings on the application of any party, make such order with respect to the interim payment as may be just, and in particular —

- (a) an order for the repayment by the plaintiff of all or part of the interim payment;
- (b) an order for the payment to be varied or discharged; or
- (c) an order for the payment by any other defendant of any part of the interim payment which the defendant who made it is entitled to recover from him by way of contribution or indemnity or in respect of any remedy or relief relating to or connected with the plaintiff's claim.

Counterclaims and other proceedings (O. 29, r. 18).

18. Rules 9 to 17 shall apply, with the necessary modifications, to any counterclaim or proceeding commenced otherwise than by writ, where one party seeks an order for an interim payment to be made by another.

ORDER 30**RECEIVERS****Application for receiver and injunction (O. 30, r. 1).**

1.—(1) An application for the appointment of a receiver may be made by summons.

(2) An application for an injunction ancillary or incidental to an order appointing a receiver may be joined with the application for such order.

(3) Where the applicant wishes to apply for the immediate grant of such injunction, he may do so *ex parte* by summons supported by an affidavit.

(4) The Court hearing an application under paragraph (3) may grant an injunction restraining the party beneficially entitled to any interest in the property of which a receiver is sought from assigning, charging or otherwise dealing with that property until after the hearing of a summons for the appointment of the receiver and may require such a summons, returnable on such date as the Court may direct, to be issued.

Giving of security by receiver (O. 30, r. 2).

2.—(1) Where a judgment is given, or order made, directing the appointment of a receiver, then, unless the judgment or order otherwise directs, a person shall not be appointed receiver in accordance with the judgment or order until he has given security in accordance with this Rule.

(2) Where by virtue of paragraph (1), or of any judgment or order appointing a person named therein to be receiver, a person is required to give security in accordance with this Rule, he must give security approved by the Court duly to account for what he receives as receiver and to deal with it as the Court directs.

(3) Unless the Court otherwise directs, the security shall be by guarantee or, if the amount for which the security is to be given does not exceed \$10,000, by an undertaking in Form 59.

(4) The guarantee or undertaking must be filed in the Registry.

Remuneration of receiver (O. 30, r. 3).

3. A person appointed receiver shall be allowed such proper remuneration, if any, as may be fixed by the Court.

Receiver's accounts (O. 30, r. 4).

4.—(1) A receiver must submit accounts to the Court at such intervals or on such dates as the Court may direct in order that they may be passed.

(2) Unless the Court otherwise directs, each account submitted by a receiver must be accompanied by an affidavit verifying it in Form 60.

(3) The receiver's accounts and affidavit (if any) must be left at the Registry, and the plaintiff or party having the conduct of the cause or matter must thereupon obtain an appointment for the purpose of passing such accounts.

(4) The passing of a receiver's accounts must be certified by the Registrar.

Payment of balance, etc., by receiver (O. 30, r. 5).

5. The days on which a receiver must pay into Court the amounts shown by his account as due from him, or such part thereof as the Court may certify as proper to be paid in by him, shall be fixed by the Court.

Default by receiver (O. 30, r. 6).

6.—(1) Where a receiver fails to attend for the passing of any account of his, or fails to submit any accounts, make any affidavit or do any other thing which he is required to submit, make or do, he and all or any of the parties to the cause or matter in which he was appointed may be required to attend in Chambers to show cause for the failure, and the Court may, either in Chambers or after adjournment into Court, give such directions as it thinks proper including, if necessary, directions for the discharge of the receiver and the appointment of another and the payment of costs.

(2) Without prejudice to paragraph (1), where a receiver fails to attend for the passing of any accounts of his or fails to submit any accounts or fails to pay into Court on the date fixed by the Court any sum shown by his accounts as due from him, the Court may disallow any remuneration claimed by the receiver in any subsequent accounts and may, where he has failed to pay any such sum into Court, charge him with interest at the rate of 6% per annum or at such other rate as the Chief Justice may from time to time direct on that sum while in his possession as receiver.

ORDER 31

**SALES, ETC., OF IMMOVABLE PROPERTY BY
ORDER OF COURT**

Power to order sale of immovable property (O. 31, r. 1).

1. Where in any cause or matter relating to any immovable property it appears necessary or expedient for the purposes of the cause or matter that the property or any part thereof should be sold, the Court may order that property or part to be sold, and any party bound by the order and in possession of that property or part, or in receipt of the rents and profits thereof, may be compelled to deliver up such possession or receipt to the purchaser or to such other person as the Court may direct.

Manner of carrying out sale (O. 31, r. 2).

2.—(1) Where an order is made, whether in Court or in Chambers, directing any immovable property to be sold, the Court may permit the party or person having the conduct of the sale to sell the property in such manner as he thinks fit, or may direct that the property be sold in such manner as the Court may either by the order or subsequently direct for the best price that can be obtained, and all proper parties shall join in the sale and conveyance as the Court shall direct.

(2) The Court may give such directions as it thinks fit for the purpose of effecting the sale, including, without prejudice to the generality of the foregoing words, directions —

- (a) appointing the party or person who is to have the conduct of the sale;
- (b) fixing the manner of sale, whether by contract conditional on the approval of the Court, private treaty, public auction, tender or some other manner;
- (c) fixing a reserve or minimum price;
- (d) requiring payment of the purchase money into Court or to trustees or other persons;
- (e) for settling the particulars and conditions of sale;
- (f) for obtaining evidence of the value of the property;
- (g) fixing the security (if any) to be given by the auctioneer, if the sale is to be by public auction, and the remuneration to be allowed him; and
- (h) requiring the title to be referred to an advocate and solicitor for his opinion thereon and to settle the particulars and conditions of sale.

Certifying result of sale (O. 31, r. 3).

3.—(1) If either the Court has directed payment of the purchase money into Court or the Court so directs, the result of a sale by order of the Court must be certified in Form 61 —

- (a) in the case of a sale by public auction, by the auctioneer who conducted the sale; and
- (b) in any other case, by the solicitor of the party or person having the conduct of the sale,

and the Court may require the certificate to be verified by the affidavit of the auctioneer or solicitor, as the case may be.

(2) The solicitor of the party or person having the conduct of the sale must file the certificate and affidavit (if any) in the Registry.

Mortgage, exchange or partition under order of the Court (O. 31, r. 4).

4. Rules 2 and 3 shall, so far as applicable and with the necessary modifications, apply in relation to the mortgage, exchange or partition of any immovable property under an order of the Court as they apply in relation to the sale of any immovable property under such an order.

Reference of matters to an advocate and solicitor (O. 31, r. 5).

5. The Court may refer to an advocate and solicitor —

- (a) any matter relating to the investigation of the title to any property with a view to an investment of money in the purchase or on mortgage thereof, or with a view to the sale thereof;
- (b) any matter relating to the settlement of a draft of a conveyance, mortgage, settlement or other instrument; and
- (c) any other matter it thinks fit, and may act upon his opinion in the matter referred.

Objection to opinion of advocate and solicitor (O. 31, r. 6).

6. Any party may object to the opinion given by the advocate and solicitor on a reference under Rule 5, and if he does so the point in dispute shall be determined by the Judge either in Chambers or in Court as he thinks fit.

ORDER 32**APPLICATIONS AND PROCEEDINGS IN CHAMBERS****Mode of making application (O. 32, r. 1).**

1. Except as provided by Order 25, Rule 7, every application in Chambers must be made by summons in Form 62.

Issue of summons (O. 32, r. 2).

2.—(1) Issue of a summons by which an application in Chambers is to be made takes place on its being sealed by an officer of the Registry.

(2) A summons may not be amended after issue without the leave of the Court.

Service of summons (O. 32, r. 3).

3. A summons asking only for the extension or abridgment of any period of time may be served on the day before the day specified in the summons for the hearing thereof but, except as aforesaid and unless the Court otherwise orders or any of these Rules otherwise provides, a summons must be served on every other party not less than two clear days before the day so specified.

Adjournment of hearing (O. 32, r. 4).

4.—(1) The hearing of a summons may be adjourned from time to time, either generally or to a particular date, as may be appropriate.

(2) If the hearing is adjourned generally, the party by whom the summons was taken out may restore it to the list on two clear days' notice to all the other parties on whom the summons was served.

Proceeding in absence of party failing to attend (O. 32, r. 5).

5.—(1) Where any party to a summons fails to attend on the first or any resumed hearing thereof, the Court may proceed in his absence if, having regard to the nature of the application, it thinks it expedient to do so.

(2) Before proceeding in the absence of any party, the Court may require to be satisfied that the summons or, as the case may be, notice of the time appointed for the resumed hearing was duly served on that party.

(3) Where the Court hearing a summons proceeded in the absence of a party, then, provided that an order made on the hearing has not been perfected, the Court, if satisfied that it is just to do so, may re-hear the summons.

(4) Where an application made by summons has been dismissed without a hearing by reason of the failure of the party who took out the summons to attend the hearing, the Court, if satisfied that it is just to do so, may allow the summons to be restored to the list.

Order made ex parte may be set aside (O. 32, r. 6).

6. The Court may set aside an order made ex parte.

Subpoena for attendance of witness (O. 32, r. 7).

7. [Deleted]

Application for leave to institute certain proceedings (O. 32, r. 8).

8.—(1) The jurisdiction of the High Court to grant leave under section 57 of the Mental Disorders and Treatment Act (Chapter 178) to bring proceedings against a person, may be exercised in Chambers only by a High Court Judge.

(2) No appearance need be entered to an originating summons by which an application for leave under section 57 of the Mental Disorders and Treatment Act is made.

(3) The application must be supported by an affidavit setting out the grounds on which such leave is sought and any facts necessary to substantiate those grounds.

Jurisdiction of Registrar (O. 32, r. 9).

9.—(1) The Registrar of the Supreme Court shall have power to transact all such business and exercise all such authority and jurisdiction under the Supreme Court of Judicature Act (Chapter 322) or these Rules as may be transacted and exercised by a Judge in Chambers except such business, authority and jurisdiction as the Chief Justice may from time to time direct to be transacted or exercised by a Judge in person or as may by any of these Rules be expressly directed to be transacted or exercised by a Judge in person.

(2) Rule 1 shall apply in relation to the jurisdiction of the Registrar of the Subordinate Courts but with the following modifications:

- (a) the reference to the Registrar of the Supreme Court shall be construed as a reference to the Registrar of the Subordinate Courts;
- (b) the reference to the Supreme Court of Judicature Act shall be construed as a reference to the Subordinate Courts Act (Chapter 321); and
- (c) the reference to directions which the Chief Justice may make shall be construed as a reference to directions which the Senior District Judge may, with the concurrence of the Chief Justice, make.

Reference of matter to Judge (O. 32, r. 10).

10. The Registrar may refer to a Judge any matter which he thinks should properly be decided by a Judge, and the Judge may either dispose of the matter or refer it back to the Registrar, as the case may be, with such directions as he thinks fit.

Power to direct hearing in Court (O. 32, r. 11).

11.—(1) The Judge in Chambers may direct that any summons, application or appeal shall be heard in Court or shall be adjourned into Court to be so heard if he considers that by reason of its importance or for any other reason it should be so heard.

(2) Any matter heard in Court by virtue of a direction under paragraph (1) may be adjourned from Court into Chambers.

Obtaining assistance of experts (O. 32, r. 12).

12. If the Court thinks it expedient in order to enable it better to determine any matter arising in proceedings in Chambers, it may obtain the assistance of any person specially qualified to advise on that matter and may act upon his opinion.

Notice of filing, etc., of affidavit (O. 32, r. 13).

13. Any party —

- (a) filing an affidavit intended to be used by him in any proceedings in Chambers; or
- (b) intending to use in any such proceedings any affidavit filed by him in previous proceedings,

must serve the affidavit on every other party or, as the case may be, give notice of his intention to do so.

Disposal of matters in Chambers (O. 32, r. 14).

14. The Judge may by any judgment or order made in Court in any proceedings direct that such matters (if any) in the proceedings as he may specify shall be disposed of in Chambers.

Papers for use of Court, etc. (O. 32, r. 15).

15. The original of any document which is to be used in evidence in proceedings in Chambers must, if it is available, be brought in, and copies of any such document or of any part thereof shall be supplied for the use of the Court or be given to the other parties to the proceedings.

ORDER 33**MODE OF TRIAL****Mode of trial (O. 33, r. 1).**

1. Subject to the provisions of these Rules, a cause or matter, or any question or issue arising therein, may be tried before —

- (a) a Judge;
- (b) a Judge with the assistance of assessors; or
- (c) the Registrar.

Time, etc., of trial of questions or issues (O. 33, r. 2).

2. The Court may order any question or issue arising in a cause or matter, whether of fact or law or partly of fact and partly of law, and whether raised by the pleadings or otherwise, to be tried before, at or after the trial of the cause or matter, and may give directions as to the manner in which the question or issue shall be stated.

Determining mode of trial (O. 33, r. 3).

3.—(1) In every action begun by writ, an order made on the summons for directions shall determine the mode of the trial; and any such order may be varied by a subsequent order of the Court made at or before the trial.

(2) In any such action different questions or issues may be ordered to be tried by different modes of trial and one or more questions or issues may be ordered to be tried before the others.

(3) The references in this Order to the summons for directions include references to any summons or application to which, under any of these Rules, Order 25, Rules 2 to 7, are to apply, with or without modifications.

Trial with assistance of assessors (O. 33, r. 4).

4. A trial of a cause or matter with the assistance of assessors shall take place in such manner and on such terms as the Court may direct.

Dismissal of action, etc., after decision of preliminary issue (O. 33, r. 5).

5. If it appears to the Court that the decision of any question or issue arising in a cause or matter and tried separately from the cause or matter substantially disposes of the cause or matter or renders the trial of the cause or matter unnecessary, it may dismiss the cause or matter or make such other order or give such judgment therein as may be just.

ORDER 34

SETTING DOWN FOR TRIAL ACTION BEGUN BY WRIT

Application and interpretation (O. 34, r. 1).

1. This Order applies to actions begun by writ and, accordingly, reference in this Order to an action shall be construed as references to an action so begun.

Time for setting down action (O. 34, r. 2).

2.—(1) Every order made on a summons for directions shall fix a period within which the plaintiff is to set down the action for trial and must contain an estimate of the length of the trial and specify the number of witnesses, if any.

(2) Where the plaintiff does not, within the period fixed under paragraph (1), set down for trial, the defendant may set the action down for trial or may apply to the Court to dismiss the action for want of prosecution and, on the hearing of any such application, the Court may order the action to be dismissed accordingly or may make such order as it thinks just.

(3) An action set down for trial must contain an estimate of the length of the trial and specify the number of witnesses (if any) and shall, subject to any directions under Rule 4, specify the list in which the action is to be put.

Lodging documents when setting down (O. 34, r. 3).

3.—(1) In order to set down for trial an action, the party setting it must deliver to the Registrar, by post or otherwise, a request in Form 63 that the action may be set down for trial together with a bundle for the use of the Judge consisting of one copy of each of the following documents:

- (a) the writ;
- (b) the pleadings (including any affidavits ordered to stand as pleadings), any notice or order for particulars and the particulars given;
- (c) all orders made on the summons for directions;
- (d) all affidavits of the evidence-in-chief of witnesses ordered or required to be filed pursuant to Order 25; and
- (e) the respective bundles of documents referred to in the affidavits.

(2) Subject to paragraph (3), the bundle must be bound up in the proper chronological order and have endorsed thereon the names, addresses and telephone numbers of the solicitors for the parties or, in the case of a party who has no solicitor, of the party himself.

(3) The affidavits of each party shall be arranged in the order in which it is intended that the deponents testify at the trial and shall be followed by that party's bundle of documents.

Directions relating to lists (O. 34, r. 4).

4. Nothing in this Order shall prejudice any power of the Chief Justice or the Senior District Judge, as the case may be, to give directions —

- (a) specifying the lists in which actions, or actions of any class or description, are to be set down for trial and providing for the keeping and publication of the lists;
- (b) providing for the determination of a date for the trial of any action which has been set down or a date before which the trial thereof is not to take place; and
- (c) as to the making of applications (whether to a Court or a Judge or the Registrar) to fix, vacate or alter any such date, and, in particular, requiring any such application to be supported by an estimate of the length of the trial and any other relevant information.

Notification of setting down (O. 34, r. 5).

5.—(1) A party to an action who sets it down for trial must, within 24 hours after doing so, notify in Form 64 the other parties to the action that he has done so.

(2) It shall be the duty of all parties to an action entered in any list to furnish without delay to the Registrar all available information as to the action being or being likely to be settled, or affecting the estimated length of the trial, and, if the action is settled or withdrawn, to notify the Registrar of the fact without delay.

Abatement, etc., of action (O. 34, r. 6).

6. Where after an action has been set down for trial the action becomes abated, or the interest or liability of any party to the action is assigned or transmitted to or devolves on some other person, the solicitor for the plaintiff or other party having the conduct of the action must, as soon as practicable after becoming aware of it, certify the abatement or change of interest or liability and send the certificate to the Registrar and the Registrar shall cause the appropriate entry to be made in the cause book and in the list of actions set down for trial.

ORDER 34A

PRE-TRIAL CONFERENCES

Power to make orders and give directions for the just, expeditious and economical disposal of proceedings (O. 34A, r. 1).

1. Notwithstanding anything in these Rules, the Court may, at any time after the commencement of any proceedings, of its own motion direct any party or parties to those proceedings to appear before it, in order that the Court may make such order or give such direction as it thinks fit, for the just, expeditious and economical disposal of the cause or matter.

Pre-trial conferences to be held when directed by the Court (O. 34A, r. 2).

2.—(1) Without prejudice to Rule 1, at any time before any action or proceedings are tried, the Court may direct parties to attend a pre-trial conference relating to the matters arising in the action or proceedings.

(2) At the pre-trial conference, the Court may consider any matter including the possibility of settlement of any or all of the issues in the action or proceedings and require the parties to furnish the Court with any such information as it thinks fit, and may also give all such directions as appear to be necessary or desirable for securing the just, expeditious and economical disposal of the action or proceedings.

(3) The Court, having made directions under Rule 2 (2) or Rule 3 may either on its own motion or upon the application of any party, if any party defaults in complying with any such directions, dismiss such action or proceedings or strike out the defence or counterclaim or enter judgment or make such order as it thinks fit.

(4) Any judgment or order made under Rule 2 (3) may be set aside by the Court, on the application of the party, on such terms, if any, as it thinks just.

(5) An application under Rule 2 (4) must be made within 7 days after the date of judgment or order.

(6) At any time during the pre-trial conference where the parties are agreeable to a settlement of some or all of the matters in dispute in the action or proceedings, the Court may enter judgment in the action or proceedings or make such order to give effect to the settlement.

Notification of pre-trial conferences (O. 34A, r. 3).

3. All parties shall be informed of the date and time appointed for the holding of the pre-trial conference by way of a notice in accordance with Form 64A, and each party shall comply with any directions contained in such notice.

Attendance at pre-trial conferences by solicitor or in person as directed by the Court (O. 34A, r. 4).

4. Parties to the action or proceedings may be represented at the pre-trial conference by their solicitor, if any, but may, if they so desire, with the leave of the Court, attend the pre-trial conference personally, at the time originally appointed or as adjourned, in addition to their solicitor.

Adjourned and subsequent pre-trial conferences (O. 34A, r. 5).

5. A pre-trial conference may be adjourned from time to time, either generally or to a particular date, as may be appropriate.

Failure to appear of one or more of the parties (O. 34A, r. 6).

6.—(1) If, at the time appointed for the pre-trial conference, one or more of the parties fails to attend, the Court may dismiss the action or proceedings or strike out the defence or counterclaim or enter judgment or make such other order as the Court thinks fit.

(2) An order made by the Court in the absence of a party concerned or affected by the order may be set aside by the Court, on the application of that party, on such terms as it thinks just.

(3) Without prejudice to the preceding paragraphs of this Rule, where one or more of the parties to the action or proceedings fails to attend the pre-trial conference, the Court may, if it thinks fit, adjourn the conference.

Non-disclosure (O. 34A, r. 7).

7. No communication of facts disclosed or of any matter considered in the course of a pre-trial conference in any action or proceedings shall be made to the Court conducting the trial of the action or proceedings.

ORDER 35

PROCEEDINGS AT TRIAL

Failure to appear by both parties or one of them (O. 35, r. 1).

1.—(1) If, when the trial of an action is called on, neither party appears, the Judge may dismiss the action or make any other order as he thinks fit.

(2) If, when the trial of an action is called on, one party does not appear, the Judge may proceed with the trial of the action or any counter-claim in the absence of that party, or may without trial give judgment or dismiss the action, or make any other order as he thinks fit.

Judgment, etc., given in absence of party may be set aside (O. 35, r. 2).

2.—(1) Any judgment or order made under Rule 1 may be set aside by the Court on the application of any party on such terms as the Court thinks just.

(2) An application under this Rule must be made within 14 days after the date of the judgment or order.

Adjournment of trial (O. 35, r. 3).

3. The Judge may, if he thinks it expedient in the interest of justice, adjourn a trial for such time, and upon such terms, if any, as he thinks fit.

Order of speeches (O. 35, r. 4).

4.—(1) The Judge before whom an action is tried may give directions as to the party to begin and the order of speeches at the trial and, subject to any such directions, the party to begin and the order of speeches shall be that provided by this Rule.

(2) Subject to paragraph (6), the plaintiff shall begin by opening his case.

(3) If the defendant elects not to adduce evidence, then, whether or not the defendant has in the course of cross-examination of a witness for the plaintiff or otherwise put in a document, the plaintiff may, after the evidence on his behalf has been given, make a second speech closing his case and the defendant shall then state his case.

(4) If the defendant elects to adduce evidence, he may, after any evidence on behalf of the plaintiff has been given, open his case and, after the evidence on his behalf has been given, make a second speech closing his case, and at the close of the defendant's case the plaintiff may make a speech in reply.

(5) Where there are two or more defendants who appear separately or are separately represented, then —

- (a) if none of them elects to adduce evidence, each of them shall state his case in the order in which his name appears on the record;
- (b) if each of them elects to adduce evidence, each of them may open his case and the evidence on behalf of each of them shall be given in the order aforesaid and the speech of each of them closing his case shall be made in that order after the evidence on behalf of all the defendants has been given;
- (c) if some of them elect to adduce evidence and some do not, those who do not shall state their cases in the order aforesaid after the speech of the plaintiff in reply to the other defendants.

(6) Where the burden of proof of all the issues in the action lies on the defendant or, where there are two or more defendants and they appear separately or are separately represented, on one of the defendants, the defendant or that defendant, as the case may be, shall be entitled to begin, and in that case paragraphs (2), (3) and (4) shall have effect in relation to, and as between, him and the plaintiff as if for references to the plaintiff and the defendant there were substituted references to the defendant and the plaintiff respectively.

(7) Where, as between the plaintiff and any defendant, the party who would, but for this paragraph, be entitled to make the final speech raises any fresh point of law in that speech or cites in that speech any authority not previously cited, the opposite party may make a further speech in reply, but only in relation to that point of law or that authority, as the case may be.

Inspection by Judge (O. 35, r. 5).

5. The Judge by whom any cause or matter is tried may inspect any place or thing with respect to which any question arises in the cause or matter. All such expenses shall be costs in the proceedings.

Death of party before giving of judgment (O. 35, r. 6).

6. Where a party to any action dies after the finding of the issues of fact and before judgment is given, judgment may be given notwithstanding the death, but the foregoing provision shall not be taken as affecting the power of the Judge to make an order under Order 15, Rule 7 (2), before giving judgment.

Entries to be made by Registrar or proper officer of the Court (O. 35, r. 7).

7.—(1) The Registrar or the proper officer of the Court must make a note in the minute book of the time at which the trial commences and terminates, and the time actually occupied on each day on which the trial takes place.

(2) At the conclusion of the trial of any action, the Registrar or the said officer must enter in the minute book the judgment given by the Judge, and any order made by the Judge as to costs.

(3) The certificate of the Registrar or the said officer in Form 65 shall be sufficient authority for the proper officer in the Registry to enter judgment accordingly.

List of exhibits (O. 35, r. 8).

8.—(1) The Registrar or the proper officer of the Court shall take charge of every document or object put in as an exhibit during the trial of any action and shall mark or label every exhibit with a letter or letters indicating the party by whom the exhibit is put in or the witness by whom it is proved, and with a number, so that all the exhibits put in by a party, or proved by a witness, are numbered in one consecutive series.

In this paragraph, a witness by whom an exhibit is proved includes a witness in the course of whose evidence the exhibit is put in.

(2) The Registrar or the said officer shall cause a list in Form 66 to be made of all the exhibits in the action, and any party may, on payment of the prescribed fee, have an office copy of that list.

(3) The list of exhibits when completed shall be attached to the pleadings and shall form part of the record of the action.

(4) For the purpose of this Rule a bundle of documents may be treated and counted as one exhibit.

Custody of exhibit after trial (O. 35, r. 9).

9.—(1) The Registrar shall retain all exhibits in his custody duly marked or labelled so that in the event of an appeal to the High Court or the Court of Appeal, he may be able to produce the exhibits so marked or labelled at the hearing of the appeal.

(2) After the expiration of the time for appealing and if no appeal has been brought, or after the final disposal of the appeal, as the case may be, the exhibits shall be returned on request of the respective parties who put them in:

Provided that where the claim or counterclaim is for money due under a negotiable instrument which is received in evidence, the negotiable instrument must be retained in the Registry and must not be delivered out of the custody of the Registry except upon an order of the Registrar.

Impounded documents (O. 35, r. 10).

10.—(1) Documents impounded by order of the Court shall not be delivered out of the custody of the Court except in compliance with an order made by a Judge on an application:

Provided that where the Attorney-General makes a written request in that behalf, documents so impounded shall be delivered into his custody.

(2) Documents impounded by order of the Court, while in the custody of the Court, shall not be inspected except by a person authorised to do so by an order signed by a Judge.

Continuation of hearing by another Judge (O. 35, r. 11).

11.—(1) When a Judge who has commenced the hearing of a cause or matter is unable through death, illness or other cause to conclude the hearing or trial, the Chief Justice or the Senior District Judge, as the case may be, may nominate another Judge to continue the hearing.

(2) Nothing herein shall prevent the Judge so nominated from recalling all or any of the witnesses or taking their evidence afresh.

ORDER 36

TRIALS BEFORE AND INQUIRIES BY REGISTRAR

Power to order trial before Registrar (O. 36, r. 1).

1. If in any cause or matter, the Court considers, upon application by any party or on its own motion, that having regard to the nature of the case it is desirable (whether on grounds of expedition, economy or convenience or otherwise) in the interests of one or more of the parties, the Court may order that the cause or matter, or any question or issue of fact arising therein, shall be tried before the Registrar.

Trial before, and inquiry by, Registrar (O. 36, r. 2).

2. The Court may, with the consent of the parties to any cause or matter, order that the cause or matter, or any question or issue of fact arising therein, be tried before the Registrar.

ORDER 37

ASSESSMENT OF DAMAGES

Assessment of damages by Registrar (O. 37, r. 1).

1.—(1) Where judgment is given for damages to be assessed and no provision is made by the judgment as to how they are to be assessed, the damages shall, subject to the provisions of this Order, be assessed by the Registrar, and the party entitled to the benefit of the judgment shall, within one month from the date of the judgment, apply to the Registrar for directions and the provisions of Order 25, Rule 3 shall, with the necessary modifications, apply.

(2) On the hearing of the application for directions, the Registrar may, in addition to making such orders as are necessary and appropriate under Order 25, Rule 3, give directions as to the time by which a notice of appointment for assessment of damages shall be filed and such notice upon being filed must, notwithstanding anything in Order 62, Rule 10, be served not later than 7 days thereafter on the party against whom the judgment is given.

(3) If the party entitled to the benefit of the judgment fails to comply with paragraph (1), the Court may, on the application of the party against whom the judgment is given, proceed to assess damages or make such other order as it thinks just.

(4) The attendance of witnesses and the production of documents before the Registrar in proceedings under this Order may be compelled by writ of subpoena, and the provisions of Order 35 shall, with the necessary adaptations, apply in relation to those proceedings as they apply in relation to proceedings at the trial.

(5) Subject to any directions given by the Registrar pursuant to this Rule, the party entitled to the benefit of the judgment must file a notice of appointment for assessment of damages within 6 months of the date of judgment.

(6) A party shall not file a notice of appointment for assessment of damages by the Registrar pursuant to this Rule unless directions for filing and exchange of affidavit evidence pursuant to Order 25, Rule 3 or 8 have been given or complied with, as the case may be.

(7) If that party does not file the notice of appointment for assessment of damages within the prescribed period, any other party may apply for directions.

Certificate of amount of damages (O. 37, r. 2).

2. Where in pursuance of this Order or otherwise damages are assessed by the Registrar, he shall certify the amount of the damages.

Default judgment against some but not all defendants (O. 37, r. 3).

3. Where any such judgment as is mentioned in Rule 1 is given in default of appearance or in default of defence, and the action proceeds against other defendants, the damages under the judgment shall be assessed at the trial unless the Court otherwise orders.

Power to order assessment by Registrar or at trial (O. 37, r. 4).

4. The Court may, in the case of any such judgment as is mentioned in Rule 1, order either —

- (a) that the assessment of the damages shall be made by the Registrar; or

- (b) that the action shall proceed to trial before a Judge as respects the damages,

and where the Court orders that the action shall proceed to trial, Order 25, Rules 2 to 7, shall, with the omission of so much of Rule 7 (1) as requires the parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application to the Court, in pursuance of which the Court makes the order, were a summons for directions under Order 25.

Assessment of value (O. 37, r. 5).

5. Rules 1 to 4 shall apply in relation to a judgment for the value of goods to be assessed, with or without damages to be assessed, as they apply to a judgment for damages to be assessed, and references in those provisions to the assessment of damages shall be construed accordingly.

Assessment of damages to time of assessment (O. 37, r. 6).

6. Where damages are to be assessed (whether under this Order or otherwise) in respect of any continuing cause of action, they shall be assessed down to the time of the assessment.

Application and interpretation (O. 37, r. 7).

7.—(1) This Rule and Rules 8 to 10 shall apply to actions for damages for personal injuries.

(2) In the following Rules of this Order, “award of provisional damages” means an award of damages for personal injuries under which —

- (a) damages are assessed on the assumption that a contingency will not happen; and
- (b) the injured person is entitled to apply for further damages at a future date if the contingency happens.

Order for provisional damages (O. 37, r. 8).

8.—(1) The Court may, on such terms as it thinks just and subject to the provisions of this Rule, make an award of provisional damages if the plaintiff has pleaded a claim for provisional damages.

(2) An order for an award of provisional damages shall specify the contingency in respect of which an application may be made at a future date, and shall also, unless the Court otherwise determines, specify the period within which such application may be made.

(3) The Court may, on the application of the plaintiff made within the period, if any, specified in paragraph (2), by order extend that period if it thinks it just to do so, and the plaintiff may make more than one such application.

(4) An order for an award of provisional damages may be made in respect of more than one contingency and may in respect of each contingency specify a different period within which an application may be made at a future date.

(5) Orders 13 and 19 shall not apply in relation to an action in which the plaintiff claims provisional damages.

Offer to submit to an award (O. 37, r. 9).

9.—(1) Where an application is made for an award of provisional damages, any defendant may at any time (whether or not he makes a payment into Court or makes an offer to settle) make a written offer to the plaintiff —

(a) to tender a sum of money (which may include an amount to be specified, in respect of interest) in satisfaction of the plaintiff's claim for damages assessed on the assumption that the injured person will not develop the contingency and identifying the contingency in question; and

(b) to agree to the making of an award of provisional damages.

(2) Any offer made under paragraph (1) shall not be brought to the attention of the Court until after the Court has determined the claim for an award of provisional damages.

(3) Where an offer is made under paragraph (1), the plaintiff may, within 21 days after receipt of the offer, give written notice to the defendant of his acceptance of the offer and shall on such acceptance make an application to the Court for an order in accordance with the provisions of Rule 8 (2).

Application for award of further damages (O. 37, r. 10).

10.—(1) This Rule shall apply where the plaintiff, pursuant to an award of provisional damages, claims further damages.

(2) No application for further damages may be made after the expiration of the period, if any, specified under Rule 8 (2), or of such period as extended under Rule 8 (3).

(3) The plaintiff shall give not less than 3 months' written notice to the defendant of his intention to apply for further damages and, if the defendant is to the plaintiff's knowledge insured in respect of the plaintiff's claim, to the insurers.

(4) The plaintiff must take out a summons for directions as to the future conduct of the action within 21 days after the expiry of the period of notice referred to in paragraph (3).

(5) On the hearing of the summons for directions, the Court shall give such directions as may be appropriate for the future conduct of the action, including, but not limited to the disclosure of medical reports and the place and date of the hearing of the application for further damages.

(6) Only one application for further damages may be made in respect of each contingency specified in the order for the award of provisional damages.

(7) The provisions of Order 29 with regard to the making of interim payments shall, with the necessary modifications, apply where an application is made under this Rule.

(8) The Court may include in an award of further damages simple interest at such rate as it thinks fit on all or any part thereof for all or any part of the period between the date of notification of the plaintiff's intention to apply for further damages and the date of the award.

ORDER 38

EVIDENCE: GENERAL

General rule: Witnesses to be examined (O. 38, r. 1).

1. Subject to these Rules and the Evidence Act (Chapter 97), and any other written law relating to evidence, any fact required to be proved at the trial of any action begun by writ by the evidence of witnesses shall be proved by the examination of the witnesses in open court.

Evidence by affidavit (O. 38, r. 2).

2.—(1) Without prejudice to the generality of Rule 1, and unless otherwise provided by any written law or by these Rules, at the trial of an action commenced by writ, evidence in chief of a witness shall be given by way of affidavit and, unless the Court otherwise orders or the parties to the action otherwise agree, such a witness shall attend trial for cross-examination and, in default of his attendance, his affidavit shall not be received in evidence except with the leave of the Court.

(2) In any cause or matter begun by originating summons, originating motion or petition, and on any application made by summons or motion, evidence shall be given by affidavit unless in the case of any such cause, matter or application any provision of these Rules otherwise provides or the Court otherwise directs, but the Court may, on the application of any party, order the attendance for cross-examination of the person making any such affidavit, and where, after such an order has been made, the person in question does not attend, his affidavit shall not be used as evidence without the leave of the Court.

(3) Unless the Court otherwise orders, no deponent to an affidavit may at the trial or hearing of any cause or matter give evidence in chief, the substance of which is not contained in his affidavit except in relation to matters which have arisen after the filing of the affidavit.

(4) Notwithstanding paragraph (1), (2) or (3), the Court may, if it thinks just, order that evidence of a party or any witness or any part of such evidence be given orally at the trial or hearing of any cause or matter.

(5) Nothing in this Rule shall make admissible evidence which if given orally would be inadmissible.

Evidence by particular facts (O. 38, r. 3).

3.—(1) Without prejudice to Rule 2, the Court may, at or before the trial of any action, order that evidence of any particular fact shall be given at the trial in such manner as may be specified by the order.

(2) The power conferred by paragraph (1) extends in particular to ordering that evidence of any particular fact may be given at the trial —

- (a) by statement on oath of information or belief;
- (b) by the production of documents or entries in books;
- (c) by copies of documents or entries in books; or
- (d) in the case of a fact which is or was a matter of common knowledge either generally or in a particular place, by the production of a specified newspaper which contains a statement of that fact.

Limitation of expert evidence (O. 38, r. 4).

4. The Court may, at or before the trial of any action, order that the number of medical or other expert witnesses who may be called at the trial shall be limited as specified by the order.

Limitation of plans, etc., in evidence (O. 38, r. 5).

5. Unless, at or before the trial, the Court for special reasons otherwise orders, no plan, photograph or model shall be receivable in evidence at the trial of an action unless at least 21 days before the commencement of the trial the parties, other than the party producing it, have been given an opportunity to inspect it and to agree to the admission thereof without further proof.

Expert evidence in action arising out of accident.

6. [Deleted by G.N. No. S 281/91 and S 59/92]

Revocation or variation of orders under Rules 2 to 5 (O. 38, r. 7).

7. Any order under Rules 2 to 5 (including an order made on appeal) may, on sufficient cause being shown, be revoked or varied by a subsequent order of the Court made at or before the trial.

Application to trials of issues, references, etc. (O. 38, r. 8).

8. Rules 1 to 7 shall apply to trials of issues or questions of fact or law, references, inquiries and assessments of damages as they apply to the trial of actions.

Depositions when receivable in evidence at trial (O. 38, r. 9).

9.—(1) No deposition taken in any cause or matter shall be received in evidence at the trial of the cause or matter unless —

- (a) the deposition was taken in pursuance of an order under Order 39, Rule 1; and
- (b) either the party against whom the evidence is offered consents or it is proved to the satisfaction of the Court that the deponent is dead, or beyond the jurisdiction of the Court or unable from sickness or other infirmity to attend the trial.

(2) A party intending to use any deposition in evidence at the trial of a cause or matter must, at a reasonable time before the trial, give notice of his intention to do so to the other party.

(3) A deposition purporting to be signed by the person before whom it was taken shall be receivable in evidence without proof of the signature being the signature of that person.

Court documents admissible or receivable in evidence (O. 38, r. 10).

10.—(1) Office copies of writs, records, pleadings and documents filed in the Registry shall be admissible in evidence in any cause or matter and between all parties to the same extent as the original would be admissible.

(2) Without prejudice to the provisions of any written law, every document purporting to be sealed with the seal of the Supreme Court or the Subordinate Courts, as the case may be, shall be received in evidence without further proof, and any document purporting to be so sealed and to be a copy of a document filed in, or issued out of, the Supreme Court or the Subordinate Courts shall be deemed to be an office copy of that document without further proof unless the contrary is shown.

Evidence of consent of new trustee to act (O. 38, r. 11).

11. A document purporting to contain the written consent of a person to act as trustee and to bear his signature verified by some other person shall be evidence of such consent.

Evidence at trial may be used in subsequent proceedings (O. 38, r. 12).

12. Any evidence taken at the trial of any cause or matter may be used in any subsequent proceedings in that cause or matter.

Order to produce document at proceeding other than trial (O. 38, r. 13).

13.—(1) At any stage in a cause or matter the Court may order any person to attend any proceedings in the cause or matter and produce any document, to be specified or described in the order, the production of which appears to the Court to be necessary for the purpose of that proceeding.

(2) No person shall be compelled by an order under paragraph (1) to produce any document at a proceeding in a cause or matter which he could not be compelled to produce at the trial of that cause or matter.

Form and issue of writ of subpoena (O. 38, r. 14).

14.—(1) A writ of subpoena must be in Form 67, 68 or 69, whichever is appropriate.

(2) Issue of a writ of subpoena takes place upon its being sealed by an officer of the Registry.

(3) Before a writ of subpoena is issued a praecipe in Form 70 for the issue of the writ must be filed in the Registry; and the praecipe must contain the name and address of the party issuing the writ, if he is acting in person, or the name of firm and business address of that party's solicitor.

(4) The Registrar may, in any case, revoke a writ of subpoena upon application by any person or on his own motion.

(5) Any party who is dissatisfied with any decision of the Registrar made under this Rule may apply to a Judge of the High Court or a District Judge, as the case may be, for a review of that decision.

(6) An application under this Rule shall be made by summons supported by an affidavit, within 14 days of that decision.

More than one name may be included in one writ of *subpoena ad testificandum* (O. 38, r. 15).

15. The names of two or more persons may be included in one writ of *subpoena ad testificandum*.

Writ of *subpoena duces tecum* (O. 38, r. 16).

16.—(1) A writ of *subpoena duces tecum* must contain the name of one person only.

(2) Any person served with a writ of *subpoena duces tecum* shall sufficiently comply if he causes the document to be produced without attending personally.

Amendment of writ of subpoena (O. 38, r. 17).

17. Where there is a mistake in any person's name or address in a writ of subpoena, then, if the writ has not been served, the party by whom the writ was issued may have the writ re-sealed in the correct form by filing a second praecipe under Rule 14 (3) endorsed with the words "Amended and re-sealed".

Service of writ of subpoena (O. 38, r. 18).

18.—(1) Unless the Court otherwise orders, a writ of subpoena must be served personally and the service shall not be valid unless effected within 12 weeks after the date of issue of the writ.

(2) A writ of subpoena shall not be served on any person outside the jurisdiction.

Duration of writ of subpoena (O. 38, r. 19).

19. A writ of subpoena continues to have effect until the conclusion of the trial at which the attendance of the witness is required.

Court records (O. 38, r. 20).

20.—(1) An officer of the Supreme Court or of any Subordinate Court shall not be required by a writ of *subpoena duces tecum* to produce the records of the Court.

(2) If the original of any record of a Court or of any document filed in such Court is for any special reason required, a request for the production thereof may, on the application of the party requiring the record or document, be addressed by the Registrar to that Court.

(3) No mark shall be placed upon any record or document produced under this Rule.

Attendance of prisoner as witness or party (O. 38, r. 21).

21.—(1) An application for an order under section 27 of the Prisons Act (Chapter 247) for the production before the Court of a person confined in prison may be made ex parte by summons supported by an affidavit in Form 71.

(2) Unless the Court otherwise orders, the costs of conveyance of the witness in safe custody to and from the Court must be paid in the first instance by the party on whose application the order was issued and shall be costs in the cause.

(3) An order for the production of such person must be in Form 72.

Tender of expenses (O. 38, r. 22).

22. A witness shall not be compelled to attend on a writ of subpoena unless a reasonable sum to cover his expenses of going to, remaining at, and returning from, Court is extended to him.

Affidavit of service of writ of subpoena (O. 38, r. 23).

23. An affidavit filed for the purpose of proving the service of a writ of subpoena must state when, where, how and by whom the service was effected.

ORDER 38A**OFFICIAL SHORTHAND NOTE****Shorthand note of evidence, etc. (O. 38A, r. 1).**

1. In any action or other proceeding which is tried or heard with witnesses, an official shorthand note may be taken of any evidence given orally and of any judgment delivered, and, if any party so requires, the note so taken shall be transcribed and such number of transcripts as any party may apply for may be supplied to him on payment of such fees as the Chief Justice may from time to time determine.

Evidence when not to be transcribed (O. 38A, r. 2).

2.—(1) If the Judge directs that in the event of an appeal his note will be sufficient, the shorthand note of the evidence need not be transcribed for the purposes of an appeal.

(2) If the parties agree or the Judge is of opinion that the evidence or some part of the evidence of any witness would, in the event of an appeal, be of no assistance to the Court of Appeal, the shorthand note of such evidence need not be transcribed for the purposes of an appeal.

(3) If any party requires a transcript of any such evidence as aforesaid, the charge therefor shall be borne by that party in any event.

Appointment of shorthand writer (O. 38A, r. 3).

3. The official shorthand note shall be taken by a shorthand writer appointed by the Court. The shorthand writer so appointed shall be the official shorthand writer for that action or proceeding and shall be under the direction of the Court with regard to the performing of his duty in recording and transcription.

Certification of transcript (O. 38A, r. 4).

4. The transcript of the official shorthand note shall be certified as correct by the official shorthand writer and when so certified, it shall be received by every Court as prima facie evidence of anything recorded in the shorthand note.

Mechanical recording (O. 38A, r. 5).

5. In this Order, any reference to an official shorthand note shall be construed as including a reference to a record of the proceedings made by mechanical or electronic means or by machine shorthand and computer-assisted transcription and any reference to a shorthand writer shall be construed as including a reference to a court monitor and transcriber.

Duration for which records are to be kept (O. 38A, r. 6).

6. The official shorthand notes, machine shorthand paper tapes and tape recordings of the proceedings shall be kept for a period of 5 years.

ORDER 39**EVIDENCE BY DEPOSITION: EXAMINERS OF THE COURT****Power to order depositions to be taken (O. 39, r. 1).**

1.—(1) The Court may, in any cause or matter where it appears necessary for the purposes of justice, make an order in Form 73 for the examination on oath before a Judge or the Registrar or some other person, at any place, of any person.

(2) An order under paragraph (1) may be made on such terms (including, in particular, terms as to the giving of discovery before the examination takes place) as the Court thinks fit.

Where person to be examined is out of jurisdiction (O. 39, r. 2).

2.—(1) Where the person in relation to whom an order under Rule 1 is required is out of the jurisdiction, an application may be made —

- (a) for an order in Form 74 under that Rule for the issue of a letter of request to the judicial authorities of the country in which that person is to take, or cause to be taken, the evidence of that person; or
- (b) if the government of that country allows a person in that country to be examined before a person appointed by the Court, for an order in Form 75 under that Rule appointing a special examiner to take the evidence of that person in that country.

(2) An application may be made for the appointment as special examiner of a Singapore consul in the country in which the evidence is to be taken or his deputy —

- (a) if there subsists with respect to that country a Civil Procedure Convention providing for the taking of the evidence of any person in that country for the assistance of proceedings in the High Court; or
- (b) with the consent of the Minister.

(3) An application under this Rule can only be made in the High Court even if the proceedings are commenced in the Subordinate Courts.

Order for issue of letter of request (O. 39, r. 3).

3.—(1) Where an order is made under Rule 1 for the issue of a letter of request to the judicial authorities of a country to take, or cause to be taken, the evidence of any person in that country, paragraphs (2) to (6) shall apply.

(2) The party obtaining the order must prepare the letter of request and lodge it in the Registry, and the letter must be in Form 76 with such variations as the order may require.

(3) If the evidence of the person to be examined is to be obtained by means of written questions, there must be lodged with the letter of request a copy of the interrogatories and cross-interrogatories to be put to him on examination.

(4) Unless the official language, or one of the official languages of the country in which the examination is to be taken is English, each document lodged under paragraph (2) or (3) must be accompanied by a translation of the document in the official language of that country or, if there is more than one official language of that country, in any one of those languages which is appropriate to the place in that country where the examination is to be taken.

(5) Every translation lodged under paragraph (4) must be certified by the person making it to be a correct translation; and the certificate must contain a statement of that person's full name, of his address and of his qualifications for making the translation.

(6) The party obtaining the order must, when he lodges in the Registry the documents mentioned in paragraphs (2) to (5), also file in the Registry an undertaking in Form 77 signed by him or his solicitor to be responsible personally for all expenses incurred by the Minister in respect of the letter of request and, on receiving due notification of the amount of those expenses, to pay that amount to the office of that Minister and to produce a receipt for the payment to the proper officer of the Registry.

Enforcing attendance of witness at examination (O. 39, r. 4).

4. Where an order has been made under Rule 1 —

- (a) for the examination of any person before the Registrar or some other person (referred to in this Rule and Rules 5 to 14 as the examiner); or
- (b) for the cross-examination before the examiner of any person who has made an affidavit which is to be used in any cause or matter,

the attendance of that person before the examiner and the production by him of any document at the examination may be enforced by writ of subpoena in like manner as the attendance of a witness and the production by a witness of a document at a trial may be enforced.

Refusal of witness to attend, or to be sworn, etc. (O. 39, r. 5).

5.—(1) If any person, having been duly summoned by writ of subpoena to attend before the examiner, refuses or fails to attend or refuses to be sworn for the purpose of the examination or to answer any lawful question or produce any document therein, a certificate of his refusal or failure, signed by the examiner, must be filed in the Registry, and upon the filing of the certificate the party by whom the attendance of that person was required may apply to the Court for an order requiring that person to attend, or to be sworn or to answer any question or produce any document, as the case may be.

(2) An application for an order under this Rule may be made *ex parte*.

(3) If the Court makes an order under this Rule it may order the person against whom the order is made to pay any costs occasioned by his refusal or failure.

(4) A person who wilfully disobeys any order made against him under paragraph (1) is guilty of contempt of Court.

Appointment of time and place for examination (O. 39, r. 6).

6.—(1) The examiner must give the party on whose application the order for examination was made a notice appointing the place and time at which, subject to any application by the parties, the examination shall be taken, and such time shall, having regard to the convenience of the persons to be examined and all the circumstances of the case, be as soon as practicable after the making of the order.

(2) The party to whom a notice under paragraph (1) is given must, on receiving it, forthwith give notice of the appointment to all the other parties.

Examiner to have certain documents (O. 39, r. 7).

7. The party on whose application the order for examination before the examiner was made must furnish the examiner with copies of such of the documents in the cause or matter as are necessary to inform the examiner of the questions at issue in the cause or matter.

Conduct of examination (O. 39, r. 8).

8.—(1) Subject to any directions contained in the order for examination —

- (a) any person ordered to be examined before the examiner may be cross-examined and re-examined; and

(b) the examination, cross-examination and re-examination of persons before the examiner shall be conducted in like manner as at the trial of a cause or matter.

(2) The examiner may put any question to any person examined before him as to the meaning of any answer made by that person or as to any matter arising in the course of the examination.

(3) The examiner may, if necessary, adjourn the examination from time to time.

Examination of additional witnesses (O. 39, r. 9).

9. The examiner may, with the written consent of all the parties to the cause or matter, take the examination of any person in addition to those named or provided for in the order for examination, and must annex such consent to the original deposition of that person.

Objection to questions (O. 39, r. 10).

10.—(1) If any person being examined before the examiner objects to answer any questions put to him, or if objection is taken to any such question, that question, the ground for the objection and the answer to any such question to which objection is taken must be set out in the deposition of that person or in a statement annexed thereto.

(2) The validity of the ground for objecting to answer any such question or for objecting to any such question shall be decided by the Court and not by the examiner, but the examiner must state to the parties his opinion thereon, and the statement of his opinion must be set out in the deposition or in a statement annexed thereto.

(3) If the Court decides against the person taking the objection, it may order him to pay the costs occasioned by his objection.

Taking of depositions (O. 39, r. 11).

11.—(1) The deposition of any person examined before the examiner must be taken down by the examiner or a shorthand writer or some other person in the presence of the examiner but, subject to paragraph (2) and Rule 10 (1), the deposition need not set out every question and answer so long as it contains as nearly as may be the statement of the person examined.

(2) The examiner may direct the exact words of any particular question and the answer thereto to be set out in the deposition if that question and answer appear to him to have special importance.

(3) The deposition of any person shall be read to him, and he shall be asked to sign it, in the presence of such of the parties as may attend, but the parties may agree in writing to dispense with the foregoing

provision. If a person refuses to sign a deposition when asked under this paragraph to do so, the examiner must sign the deposition.

(4) The original deposition of any person, authenticated by the signature of the examiner before whom it was taken, must be sent by the examiner to the Registry and shall be filed therein.

Time taken by examination to be endorsed on depositions (O. 39, r. 12).

12. Before sending any deposition to the Registry, the examiner must endorse on the deposition a statement signed by him of the time occupied in taking the examination and the fees to be paid in respect thereof.

Special report by examiner (O. 39, r. 13).

13. The examiner may make a special report to the Court with regard to any examination taken before him and with regard to the absence or conduct of any person thereat, and the Court may direct such proceedings to be taken, or make such order, on the report as it thinks fit.

Order for payment of examiner's fees (O. 39, r. 14).

14.—(1) If the fees and expenses due to an examiner are not paid, he may report that fact to the Court, and the Court may make an order against the party, on whose application the order for examination was made, to pay the examiner the fees and expenses due to him in respect of the examination.

(2) An order under this Rule shall not prejudice any determination on the taxation of costs or otherwise as to the party by whom the costs of the examination are ultimately to be borne.

Perpetuation of testimony (O. 39, r. 15).

15.—(1) Witnesses shall not be examined to perpetuate testimony unless an action has been begun for the purpose.

(2) Any person who would under the circumstances alleged by him to exist become entitled, upon the happening of any future event, to any honour, title, dignity or office, or to any estate or interest in any real or personal property, the right or claim to which cannot be brought to trial by him before the happening of such event, may begin an action to perpetuate any testimony which may be material for establishing such right or claim.

(3) No action to perpetuate the testimony of witnesses shall be set down for trial.

ORDER 40

COURT EXPERT

Appointment of expert to report on certain question (O. 40, r. 1)

1.—(1) In any cause or matter in which any question for an expert witness arises, the Court may at any time, on the application of any party, appoint an independent expert or, if more than one such question arises, two or more such experts, to inquire and report upon any question of fact or opinion not involving questions of law or of construction.

An expert appointed under this paragraph is referred to in this Order as a court expert.

(2) Any court expert in a cause or matter shall, if possible, be a person agreed between the parties and, failing agreement, shall be nominated by the Court.

(3) The question to be submitted to the court expert and the instructions (if any) given to him shall, failing agreement between the parties, be settled by the Court.

(4) In this Rule, “expert”, in relation to any question arising in a cause or matter, means any person who has such knowledge or experience of or in connection with that question that his opinion on it would be admissible in evidence.

Report of court expert (O. 40, r. 2).

2.—(1) The court expert must send his report to the Court, together with such number of copies thereof as the Court may direct, and the Registrar must send copies of the report to the parties or their solicitors.

(2) The Court may direct the court expert to make a further or supplemental report.

(3) Any part of a court expert’s report which is not accepted by all the parties to the cause or matter in which it is made shall be treated as information furnished to the Court and be given such weight as the Court thinks fit.

Experiments and tests (O. 40, r. 3).

3. If the court expert is of opinion that an experiment or test of any kind (other than one of a trifling character) is necessary to enable him to make a satisfactory report, he shall inform the parties or their solicitors and shall, if possible, make an arrangement with them as to the expenses involved, the persons to attend and other relevant matters; and if the parties are unable to agree on any of those matters, it shall be settled by the Court.

Cross-examination of court expert (O. 40, r. 4).

4. Any party may, within 14 days after receiving a copy of the court expert's report, apply to the Court for leave to cross-examine the expert on his report, and on that application the Court shall make an order for the cross-examination of the expert by all the parties either —

(a) at the trial; or

(b) before an examiner at such time and place as may be specified in the order.

Remuneration of court expert (O. 40, r. 5).

5.—(1) The remuneration of the court expert shall be fixed by the Court and shall include a fee for his report and a proper sum for each day during which he is required to be present either in Court or before an examiner.

(2) Without prejudice to any order providing for payment of the court expert's remuneration as part of the costs of the cause or matter, the parties shall be jointly and severally liable to pay the amount fixed by the Court for his remuneration, but where the appointment of a court expert is opposed, the Court may, as a condition of making the appointment, require the party applying for the appointment to give such security for the remuneration of the expert as the Court thinks fit.

Calling of expert witnesses (O. 40, r. 6).

6. Where a court expert is appointed in a cause or matter, any party may, on giving to the other parties a reasonable time before the trial notice of his intention to do so, call one expert witness to give evidence on the question reported on by the court expert but no party may call more than one such witness without the leave of the Court, and the Court shall not grant leave unless it considers the circumstances of the case to be exceptional.

ORDER 41**AFFIDAVITS****Form of affidavit (O. 41, r. 1).**

1.—(1) Subject to paragraphs (2) and (3), every affidavit sworn in a cause or matter must be entitled in that cause or matter.

(2) Where a cause or matter is entitled in more than one matter, it shall be sufficient to state the first matter followed by the words "and other matters", and where a cause or matter is entitled in a matter or matters and between parties, that part of the title which consists of the matter or matters may be omitted.

(3) Where there are more plaintiffs than one, it shall be sufficient to state the full name of the first followed by the words “and others”, and similarly with respect to defendants.

(4) Every affidavit must be expressed in the first person and, unless the Court otherwise directs, must state the place of residence of the deponent and his occupation or, if he has none, his description, and if he is, or is employed by, a party to the cause or matter in which the affidavit is sworn, the affidavit must state that fact.

Provided that in the case of a deponent who is giving evidence in a professional, business or other occupational capacity the affidavit may, instead of stating the deponent’s place of residence, state the address at which he works, the position he holds and the name of his firm or employer, if any.

(5) Every affidavit must be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.

(6) Dates, sums and other numbers must be expressed in an affidavit in figures and not in words.

(7) Every affidavit must be signed by the deponent and the jurat must be completed and signed by the person before whom it is sworn.

(8) A jurat must be in one of the forms in Form 78.

Affidavit by two or more deponents (O. 41, r. 2).

2.—(1) Where an affidavit is made by two or more deponents, the names of the persons making the affidavit must be inserted in the jurat except that, if the affidavit is sworn by both or all the deponents at one time before the same person, it shall be sufficient to state that it was sworn by both (or all) of the abovenamed deponents.

(2) When the oath is administered to deponents in different languages, there shall be a separate jurat for those sworn in each language.

Affidavit by illiterate or blind person (O. 41, r. 3).

3. Where it appears to the person administering the oath that the deponent is illiterate or blind, he must certify in the jurat that —

(a) the affidavit was read in his presence to the deponent;

(b) the deponent seemed perfectly to understand it; and

(c) the deponent made his signature or mark in his presence,

and the affidavit shall not be used in evidence without such a certificate unless the Court is otherwise satisfied that it was read to and appeared to be perfectly understood by the deponent.

Use of defective affidavit (O. 41, r. 4).

4. An affidavit may, with the leave of the Court, be filed or used in evidence notwithstanding any irregularity in the form thereof.

Contents of affidavit (O. 41, r. 5).

5.—(1) Subject to the other provisions of these Rules, an affidavit may contain only such facts as the deponent is able of his own knowledge to prove.

(2) An affidavit sworn for the purpose of being used in interlocutory proceedings may contain statements of information or belief with the sources and grounds thereof.

Scandalous, etc., matter in affidavits (O. 41, r. 6).

6. The Court may order to be struck out of any affidavit any matter which is scandalous, irrelevant or otherwise oppressive.

Alterations in affidavits (O. 41, r. 7).

7.—(1) An affidavit which has in the jurat or body thereof any interlineation, erasure or other alteration shall not be filed or used in any proceeding without the leave of the Court unless the person before whom the affidavit was sworn has initialled the alteration and, in the case of an erasure, has re-written in the margin of the affidavit any words or figures written on the erasure and has signed or initialled them.

(2) No alteration shall be made in any affidavit after it has been filed, but, before an affidavit is filed, alterations may be made therein and the affidavit must be re-sworn with a further jurat commencing with the word “re-sworn”, added.

Affidavit not to be sworn before solicitor of party, etc. (O. 41, r. 8).

8. No affidavit shall be sufficient if sworn before a commissioner for oaths who is a solicitor of the party on whose behalf the affidavit is to be used or before any member of the firm of that solicitor.

Filing of affidavits (O. 41, r. 9).

9.—(1) Except as otherwise provided by these Rules, every affidavit must be filed in the Registry.

(2) Every affidavit must be endorsed with a note showing on whose behalf it is filed and the dates of swearing and filing, and an affidavit which is not so endorsed may not be filed or used without the leave of the Court.

Use of original affidavit or office copy (O. 41, r. 10).

10.—(1) Subject to paragraph (2), an original affidavit may be used in proceedings with the leave of the Court, notwithstanding that it has not been filed in accordance with Rule 9.

(2) An original affidavit may not be used in any proceedings unless it has previously been stamped with the appropriate fee.

(3) Where an original affidavit is used then, unless the party whose affidavit it is undertakes to file it, he must immediately after it is used file it with the proper officer in the Registry.

(4) Where an affidavit has been filed, an office copy thereof may be used in any proceedings.

Document to be used in conjunction with affidavit to be exhibited to it (O. 41, r. 11).

11.—(1) Subject to Order 25, Rule 9, any document to be used in conjunction with an affidavit must be exhibited and a copy thereof annexed to the affidavit.

(2) Any exhibit to an affidavit must be identified by a certificate of the person before whom the affidavit is sworn.

The certificate must be entitled in the same manner as the affidavit and Rule 1 (1), (2) and (3) shall apply accordingly.

Affidavit taken outside Singapore admissible without proof of seal, etc. (O. 41, r. 12).

12. A document purporting to have affixed or impressed thereon or subscribed thereto the seal or signature of a court, judge, notary public or person having authority to administer oaths in a Commonwealth country and in the case of any other country, the seal or signature of a consular officer of a Commonwealth country in testimony of an affidavit being taken before it or him shall be admitted in evidence without proof of the seal or signature being the seal or signature of that court, judge, notary public or person.

ORDER 42**JUDGMENTS AND ORDERS****Delivering judgments (O. 42, r. 1).**

1.—(1) Every judgment, after the hearing of a cause or matter in open court, shall, subject to paragraphs (3) and (4), be pronounced in open Court either on the conclusion of the hearing or on a subsequent day of which notice shall be given to the parties.

(2) Where a cause or matter is heard in Chambers, the Judge hearing it may, subject to paragraphs (3) and (4), pronounce the judgment in Chambers, or, if he thinks fit, in open Court.

(3) Whenever a written judgment is to be delivered, the Court may deliver it by directing copies thereof to be handed to the parties or their solicitors upon payment of the appropriate charges therefor, and the original thereof signed by the Judge shall be filed.

(4) When a Judge who has heard any cause or matter is unable through death, illness or other cause to pronounce judgment, the judgment written by him may be pronounced by any other Judge in open Court or in Chambers, as the case may be, and such other Judge may deliver it in Chambers by directing copies thereof to be handed to the parties or their solicitors upon payment of the appropriate charges therefor, and the original thereof signed by the Judge who wrote it shall be filed.

Judgment in proceedings heard in camera (O. 42, r. 2).

2. Where proceedings are heard in camera pursuant to any written law, any judgment pronounced or delivered in such proceedings shall not be available for public inspection except that the Court may, on such terms as it may impose, allow an inspection of such judgment by, or a copy thereof to be furnished to, a person who is not a party to the proceedings.

Inspection of judgment (O. 42, r. 3).

3. Subject to Rule 2, a copy of every judgment delivered in any cause or matter heard in open Court shall be available for public inspection upon payment of the prescribed fee and a copy thereof shall be handed to any member of the public upon payment of the appropriate charges therefor, and nothing in Order 60, Rule 4 shall apply to this Rule.

Entry of judgment in cause book (O. 42, r. 4).

4. The proper officer in the Registry must enter in the cause book a minute of every judgment or final order given or made by the Court.

Form of judgment, etc. (O. 42, r. 5).

5.—(1) If, in the case of any judgment, a form thereof is prescribed in Form 79, the judgment must be in that form.

(2) The party entering any judgment shall be entitled to have recited therein a statement of the manner in which the writ or other originating process by which the cause or matter in question was begun was served.

(3) An order must be marked with the name of the Judge or the Registrar by whom it was made and must be sealed.

Judgment, etc., requiring act to be done: Time for doing it (O. 42, r. 6).

6.—(1) Subject to paragraph (2), a judgment or order which requires a person to do an act must specify the time after service of the judgment or order, or some other time, within which the act is to be done.

(2) Where the act which any person is required by any judgment or order to do is to pay money to some other person, give possession of any immovable property or deliver any movable property, a time within which the act is to be done need not be specified in the judgment or order by virtue of paragraph (1), but the foregoing provision shall not affect the power of the Court to specify such a time and to adjudge or order accordingly.

Date from which judgment or order takes effect (O. 42, r. 7).

7.—(1) A judgment or order of the Court takes effect from the day of its date.

(2) Such a judgment or order shall be dated as of the day on which it is pronounced, given or made, unless the Court orders it to be dated as of some other earlier or later day, in which case it shall be dated as of that other day.

Preparation of judgment or order (O. 42, r. 8).

8.—(1) Where the party in whose favour a judgment or order is given or made is represented by a solicitor, a copy of the draft shall be submitted for approval to the solicitor (if any) of the other party who shall within two days of the receipt thereof, or within such further time as may in any case be allowed by the Registrar, return such copy with his signed consent or any required amendments thereto.

(2) When the solicitor omits to return the copy of the draft within the time prescribed, he shall be deemed to have consented to the terms thereof.

(3) In any case where the solicitors concerned are unable to agree upon the draft, any one of them may obtain an appointment before the Registrar, of which notice shall be given to the other, to settle the terms of the judgment or order.

(4) Every judgment or order shall be settled by the Registrar, but in the case of a judgment or order made by a Judge, any party may require the matter in dispute to be referred to the Judge for his determination.

(5) Where the other party has no solicitor, the draft shall be submitted to the Registrar.

Orders required to be drawn up (O. 42, r. 9).

9.—(1) Subject to paragraph (2), every order of the Court shall be drawn up unless the Court otherwise directs.

(2) An order —

(a) which —

(i) extends the period within which a person is required or authorised by these Rules, or by any judgment, order or direction, to do any act; or

(ii) grants leave for the doing of any of the acts mentioned in paragraph (3); and

(b) which neither imposes any special terms nor includes any special directions other than a direction as to costs,

need not be drawn up unless the Court otherwise directs.

(3) The acts referred to in paragraph (2) (a) (ii) are —

(a) the issue of any writ, other than a writ of summons which is required for service out of the jurisdiction;

(b) the amendment of a writ of summons or other originating process or a pleading;

(c) the filing of any documents; and

(d) any act to be done by an officer of the Court other than a solicitor.

Drawing up and entry of judgments and orders (O. 42, r. 10).

10.—(1) Where a judgment given in a cause or matter is presented for entry in accordance with this Rule at the Registry, it shall be entered by an officer of the Registry in the book kept for the purpose.

(2) The party seeking to have such judgment entered must draw up the judgment and present it to the proper officer of the Registry for entry.

(3) On entering any such judgment, the proper officer shall file the judgment and return a duplicate thereof to the party who presented it for entry.

(4) Every order required to be drawn up must be drawn up by the party in whose favour the order has been made and, if that party fails to draw up the order within 7 days after it is made, any other party affected by the order may draw it up.

(5) The order referred to in paragraph (4) must, when drawn up, be produced at the Registry, together with a copy thereof, and when passed by the proper officer the order, sealed with the seal of the Supreme Court or the Subordinate Courts, as the case may be, shall be returned to the party producing it and the copy shall be lodged in the Registry.

Duplicates of judgments and orders (O. 42, r. 11).

11.—(1) Not less than one clear day after a judgment or order has been filed a duplicate thereof shall be supplied on payment of the prescribed fee out of the Registry to any party in the proceedings.

(2) The duplicate of a judgment or order may be a carbon copy of the original except that, if the Registrar so directs, the duplicate of every judgment or order of such class as he directs, shall be a photographic copy or a copy produced by type lithography or other similar process.

(3) Before a duplicate of a judgment or order is issued, it must be sealed and there must be noted thereon the number of the judgment, the date of entry and the amount of any stamp on the original.

(4) Where by any of these Rules or any order of the Court the original judgment or order is required to be produced or served, it shall be sufficient to produce or serve the duplicate.

(5) A further duplicate of a judgment or order may, on payment of the prescribed fee, be issued if the Registrar is satisfied that the duplicate has been lost and that the applicant for a further duplicate is entitled to it.

(6) A judgment or order shall not be amended except on production of the duplicate thereof last issued, and the amendment sealed, under the direction of the Registrar.

Interest on judgment debts (O. 42, r. 12).

12. Except when it has been otherwise agreed between the parties, every judgment debt shall carry interest at the rate of 6% per annum or at such other rate as the Chief Justice may from time to time direct or at such other rate not exceeding the rate aforesaid as the Court directs, such interest to be calculated from the date of judgment until the judgment is satisfied:

Provided that this rule shall not apply when an order has been made under section 43 (1) or (2) of the Subordinate Courts Act (Chapter 321).

Where money to be paid in instalments (O. 42, r. 13).

13. Where pursuant to section 43 of the Subordinate Courts Act money payable under a judgment or order is, at the time when the judgment or order is given or made, directed to be paid by instalments, the direction to that effect must be inserted in the judgment or order.

ORDER 43

ACCOUNTS AND INQUIRIES

Summary order for account (O. 43, r. 1).

1.—(1) Where a writ is endorsed with a claim for an account or a claim which necessarily involves taking an account, the plaintiff may, at any time after the defendant has entered an appearance or after the time limited for appearing, apply for an order under this Rule.

(2) A defendant to an action begun by writ who has served a counter-claim, which includes a claim for an account or a claim which necessarily involves taking an account, on —

(a) the plaintiff;

(b) any other party; or

(c) any person who becomes a party by virtue of such service, may apply for an order under this rule.

(3) An application under this Rule must be made by summons and, if the Court so directs, must be supported by affidavit or other evidence.

(4) On the hearing of the application, the Court may, unless satisfied by the defendant by affidavit or otherwise that there is some preliminary question to be tried, order that an account be taken and may also order that any amount certified on taking the account to be due to either party be paid to him within a time specified in the order.

Court may direct taking of accounts, etc. (O. 43, r. 2).

2.—(1) The Court may, on an application made by summons at any stage of the proceedings in a cause or matter, direct any necessary accounts or inquiries to be taken or made in Form 80.

(2) Every direction for the taking of an account or the making of an inquiry shall be numbered in the judgment or order so that, as far as may be, each distinct account and inquiry may be designated by a number.

Directions as to manner of taking account (O. 43, r. 3).

3.—(1) Where the Court orders an account to be taken, it may by the same or a subsequent order give directions with regard to the manner in which the account is to be taken or vouched or the inquiry is to be made.

(2) Without prejudice to the generality of paragraph (1), the Court may direct that in taking the account the relevant books of account shall be evidence of the matters contained therein with liberty to the parties interested to take such objections thereto as they think fit.

Account to be made, verified, etc. (O. 43, r. 4).

4.—(1) Where an account has been ordered to be taken, the accounting party must make out his account and, unless the Court otherwise directs, verify it by an affidavit to which the account must be exhibited.

(2) The items on each side of the account must be numbered consecutively.

(3) Unless the order for the taking of the account otherwise directs, the accounting party must lodge the account with the Registry and must at the same time notify the other parties that he has done so and of the filing of any affidavit verifying the account and of any supporting affidavit.

Notice to be given of alleged omissions, etc., in account (O. 43, r. 5).

5. Any party who seeks to charge an accounting party with an amount beyond that which he has by his account admitted to have received or who alleges that any item in his account is erroneous in respect of amount or in any other respect must give him notice thereof stating, so far as he is able, the amount sought to be charged, with brief particulars thereof or, as the case may be, the grounds for alleging that the item is erroneous.

Allowances (O. 43, r. 6).

6. In taking any account directed by any judgment or order all just allowances shall be made without any direction to that effect.

Delay in prosecution of accounts, etc. (O. 43, r. 7).

7.—(1) If it appears to the Court that there is undue delay in the prosecution of any accounts or inquiries, or in any other proceedings under any judgment or order, the Court may require the party having the conduct of the proceedings or any other party to explain the delay and may then make such order for staying the proceedings or for expediting them or for the conduct thereof and for costs as the circumstances require.

(2) The Court may direct any party to take over the conduct of the proceedings in question, to carry out any directions made by an order under this Rule and to make such order as to costs as the Court deems fit.

Distribution of fund before all persons entitled are ascertained (O. 43, r. 8).

8. Where some of the persons entitled to share in a fund are ascertained, and difficulty or delay has occurred or is likely to occur in ascertaining the other persons so entitled, the Court may order or allow immediate payment of their shares to the persons ascertained without reserving any part of those shares to meet the subsequent costs of ascertaining those other persons.

ORDER 44

PROCEEDINGS UNDER JUDGMENTS AND ORDERS

[Deleted]

ORDER 45

ENFORCEMENT OF JUDGMENTS AND ORDERS

Enforcement of judgment, etc., for payment of money (O. 45, r. 1).

1.—(1) Subject to these Rules and section 43 of the Subordinate Courts Act (Chapter 321) where applicable, a judgment or order for the payment of money, not being a judgment or order for the payment of money into Court, may be enforced by one or more of the following means:

- (a) writ of seizure and sale;
- (b) garnishee proceedings;
- (c) the appointment of a receiver;
- (d) in a case in which Rule 5 applies, an order of committal.

(2) Subject to these Rules, a judgment or order for the payment of money into Court may be enforced by one or more of the following means:

- (a) the appointment of a receiver;
- (b) in a case in which Rule 5 applies, an order of committal.

(3) Paragraphs (1) and (2) are without prejudice to any other remedy available to enforce such a judgment or order as is therein mentioned or to the power of a Court under the Debtors Act (Chapter 73) to commit to prison a person who makes default in paying money adjudged or ordered to be paid by him, or to any written law relating to bankruptcy or the winding up of companies.

(4) In this Order, references to any writ shall be construed as including references to any further writ in aid of the first mentioned writ.

Judgment, etc., for payment of money to person resident outside scheduled territories (O. 45, r. 2).

2.—(1) Where any person is directed by any judgment, order or award to pay any money to or for the credit of a person who is resident outside the scheduled territories, he must, unless the Monetary Authority of Singapore has given permission for the payment under the Exchange Control Act (Chapter 99), unconditionally or upon conditions which have been complied with, pay the money into Court.

(2) Payment into Court under paragraph (1) shall, to the extent of the amount paid in, be a good discharge to the person making the payment, and no steps may be taken to enforce the judgment, order or award to the extent of that amount.

(3) Notice of a payment into Court under this Rule must be given to the plaintiff or his solicitor and to any other person required by the judgment, order or award to be given notice of such payment.

Enforcement of judgment for possession of immovable property (O. 45, r. 3).

3.—(1) Subject to these Rules, a judgment or order for the giving of possession of immovable property may be enforced by one or more of the following means:

(a) writ of possession;

(b) in a case in which Rule 5 applies, an order of committal.

(2) A writ of possession to enforce a judgment or order for the giving of possession of any immovable property shall not be issued without the leave of the Court except where the judgment or order was given or made in a mortgage action to which Order 83 applies.

(3) Such leave shall not be granted unless it is shown that every person in actual possession of the whole or any part of the immovable property has received such notice of the proceedings as appears to the Court sufficient to enable him to apply to the Court for any relief to which he may be entitled.

(4) A writ of possession may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

Enforcement of judgment for delivery of movable property (O. 45, r. 4).

4.—(1) Subject to these Rules, a judgment or order for the delivery of any movable property which does not give a person against whom the judgment is given or order made the alternative of paying the assessed value of the property may be enforced by one or more of the following means:

(a) writ of delivery to recover the property without alternative provision for recovery of the assessed value thereof (referred to in this Rule as a writ of specific delivery);

(b) in a case in which Rule 5 applies, an order of committal.

(2) Subject to these Rules, a judgment or order for the delivery of any movable property or payment of their assessed value may be enforced by one or more of the following means:

(a) writ of delivery to recover the property or its assessed value;

(b) with the leave of the Court, writ of specific delivery;

(c) in a case in which Rule 5 applies, an order of committal.

(3) A writ of specific delivery, and a writ of delivery to recover any movable property or their assessed value, may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

(4) A judgment or order for the payment of the assessed value of any movable property may be enforced by the same means as any other judgment or order for the payment of money.

Enforcement of judgment to do or abstain from doing an act (O. 45, r. 5).

5.—(1) Where —

- (a) a person required by a judgment or order to do an act within a time specified in the judgment or order refuses or neglects to do it within that time or, as the case may be, within that time as extended or abridged under Order 3, Rule 4; or
- (b) a person disobeys a judgment or order requiring him to abstain from doing an act,

then, subject to these Rules, the judgment or order may be enforced by one or more of the following means:

- (i) with the leave of the Court, an order of committal;
- (ii) where that person is a body corporate, with the leave of the Court, an order of committal against any director or other officer of the body;
- (iii) subject to the provisions of the Debtors Act (Chapter 73), an order of committal against that person or, where that person is a body corporate, against any such officer.

(2) Where a judgment or order requires a person to do an act within a time therein specified and an order is subsequently made under Rule 6 requiring the act to be done within some other time, references in paragraph (1) to a judgment or order shall be construed as references to the order made under Rule 6.

(3) Where under any judgment or order requiring the delivery of any movable property the person liable to execution has the alternative of paying the assessed value of the property, the judgment or order shall not be enforceable by order of committal under paragraph (1), but the Court may, on the application of the person entitled to enforce the judgment or order, make an order requiring the first mentioned person to deliver the property to the applicant within a time specified in the order, and that order may be so enforced.

Judgment, etc., requiring act to be done: Order fixing time for doing it (O. 45, r. 6).

6.—(1) Notwithstanding that a judgment or order requiring a person to do an act specifies a time within which the act is to be done, the Court shall, without prejudice to Order 3, Rule 4, have power to make an order requiring the act to be done within another time, being such time after service of that order, or such other time as may be specified therein.

(2) Where, notwithstanding Order 42, Rule 6 (1), or by reason of Order 42, Rule 6 (2), a judgment or order requiring a person to do an act does not specify a time within which the act is to be done, the Court shall have power subsequently to make an order requiring the act to be done within such time after service of that order, or such other time, as may be specified therein.

(3) An application for an order under this Rule must be made by summons and the summons must, notwithstanding anything in Order 62, Rule 10, be served on the person required to do the act in question.

Service of copy of judgment, etc., prerequisite to enforcement under Rule 5 (O. 45, r. 7).

7.—(1) In this Rule references to an order shall be construed as including references to a judgment.

(2) Subject to Order 24, Rule 16 (3), Order 26, Rule 7 (3) and paragraphs (6) and (7) of this Rule, an order shall not be enforced under Rule 5 unless —

- (a) a copy of the order has been served personally on the person required to do or abstain from doing the act in question; and
- (b) in the case of an order requiring a person to do an act, the copy has been so served before the expiration of the time within which he was required to do the act.

(3) Subject as aforesaid, an order requiring a body corporate to do or abstain from doing an act shall not be enforced as mentioned in Rule 5 (1) (ii) or (iii) unless —

- (a) a copy of the order has also been served personally on the officer against whom an order of committal is sought; and
- (b) in the case of an order requiring the body corporate to do an act, the copy has been so served before the expiration of the time within which the body was required to do the act.

(4) There must be endorsed on the copy of an order served under this Rule a notice in Form 87 informing the person on whom the copy is served —

(a) in the case of service under paragraph (2), that if he neglects to obey the order within the time specified therein, or, if the order is to abstain from doing an act, that if he disobeys the order, he is liable to process of execution to compel him to obey it; and

(b) in the case of service under paragraph (3), that if the body corporate neglects to obey the order within the time so specified or, if the order is to abstain from doing an act, that if the body corporate disobeys the order, the body corporate is liable to process of execution to compel the body to obey it.

(5) With the copy of an order required to be served under this Rule, being an order requiring a person to do an act, there must also be served a copy of any order made under Order 3, Rule 5, extending or abridging the time for doing the act and, where the first mentioned order was made under Rule 5 (3) or 6, a copy of the previous order requiring the act to be done.

(6) An order requiring a person to abstain from doing an act may be enforced under Rule 5 notwithstanding that service of a copy of the order has not been effected in accordance with this Rule if the Court is satisfied that, pending such service, the person against whom or against whose property it is sought to enforce the order has had notice thereof either —

(a) by being present when the order was made; or

(b) by being notified of the terms of the order, whether by telephone, telegram or otherwise.

(7) Without prejudice to its powers under Order 62, Rule 5, the Court may dispense with service of a copy of an order under this Rule if it thinks it just to do so.

Court may order act to be done at expense of disobedient party (O. 45, r. 8).

8. If an order of mandamus, a mandatory order, an injunction or a judgment or order for the specific performance of a contract is not complied with, then, without prejudice to its powers under section 14 of the Supreme Court of Judicature Act (Chapter 322), where applicable, and its powers to punish the disobedient party for contempt, the Court may direct that the act required to be done may, so far as practicable, be done by the party by whom the order or judgment was obtained or some other person appointed by the Court, at the cost of the disobedient party, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and execution may issue against the disobedient party for the amount so ascertained and for costs.

Execution by or against person not being a party (O. 45, r. 9).

9.—(1) Any person, not being a party to a cause or matter, who obtains any order or in whose favour any order is made, shall be entitled to enforce obedience to the order by the same process as if he were a party.

(2) Any person, not being a party to a cause or matter, against whom obedience to any judgment or order may be enforced, shall be liable to the same process for enforcing obedience to the judgment or order as if he were a party.

Conditional judgment: Waiver (O. 45, r. 10).

10. A party entitled under any judgment or order to any relief subject to the fulfilment of any condition who fails to fulfil that condition is deemed to have abandoned the benefit of the judgment or order, and, unless the Court otherwise directs, any other person interested may take any proceedings which either are warranted by the judgment or order or might have taken if the judgment or order had not been given or made.

Matters occurring after judgment: Stay of execution, etc. (O. 45, r. 11).

11. Without prejudice to Order 47, Rule 1, a party against whom a judgment has been given or an order made may apply to the Court for a stay of execution of the judgment or order or other relief on the ground of matters which have occurred since the date of the judgment or order, and the Court may by order grant such relief, and on such terms, as it thinks fit.

Forms of writs (O. 45, r. 12).

12.—(1) A writ of seizure and sale must be in Form 88 (for movable property) or Form 88A (for immovable property).

(2) A writ of delivery must be in Form 89.

(3) A writ of possession must be in Form 90.

Enforcement of judgments and orders for recovery of money, etc. (O. 45, r. 13).

13.—(1) Rule 1 (1), with the omission of sub-paragraph (d) thereof, and Orders 46 to 51 shall apply in relation to a judgment or order for the recovery of money as they apply in relation to a judgment or order for the payment of money.

(2) Rule 3, with the omission of paragraph (1) (b) thereof, and Order 47, Rule 2 (2), shall apply in relation to a judgment or order for the recovery of possession of immovable property as they apply in relation to a judgment or order for the giving or delivery of possession of immovable property.

(3) Rule 4, with the omission of paragraphs 1 (b) and (2) (c) thereof, and Order 47, Rule 2 (2), shall apply in relation to a judgment or order that a person do have a return of any movable property or do recover the assessed value thereof as they apply in relation to a judgment or order for the delivery of any movable property or payment of the assessed value thereof respectively.

ORDER 46

WRITS OF EXECUTION: GENERAL

Definition (O. 46, r. 1).

1. In this Order, unless the context otherwise requires, “writ of execution” includes a writ of seizure and sale, a writ of possession and a writ of delivery.

When leave to issue any writ of execution is necessary (O. 46, r. 2).

2.—(1) A writ of execution to enforce a judgment or order may not issue without the leave of the Court in the following cases:

- (a) where 6 years or more have lapsed since the date of the judgment or order;
- (b) where any change has taken place, whether by death or otherwise, in the parties entitled or liable to execution under the judgment or order;
- (c) where the judgment or order is against the assets of a deceased person coming into the hands of his executors or administrators after the date of the judgment or order, and it is sought to issue execution against such assets;
- (d) where under the judgment or order any person is entitled to relief subject to the fulfilment of any condition which it is alleged has been fulfilled; and
- (e) where any movable property sought to be seized under a writ of execution is in the hands of a receiver appointed by the Court.

(2) Paragraph (1) is without prejudice to any written law or rule by virtue of which a person is required to obtain the leave of the Court for the issue of a writ of execution or to proceed to execution on or otherwise the enforcement of a judgment or order.

(3) Where the Court grants leave, whether under this Rule or otherwise, for the issue of a writ of execution and the writ is not issued within one year after the date of the order granting such leave, the order shall cease to have effect, without prejudice, however, to the making of a fresh order.

Application for leave to issue writ (O. 46, r. 3).

3.—(1) An application for leave to issue a writ of execution may be made ex parte by summons in Form 91.

(2) Such an application must be supported by an affidavit —

- (a) identifying the judgment or order to which the application relates and, if the judgment or order is for the payment of money, stating the amount originally due thereunder and the amount due thereunder at the date of the application;
- (b) stating, where the case falls within Rule 2 (1) (a), the reasons for the delay in enforcing the judgment or order;
- (c) stating, where the case falls within Rule 2 (1) (b), the change which has taken place in the parties entitled or liable to execution since the date of the judgment or order;
- (d) stating, where the case falls within Rule 2 (1) (c) or (d), that a demand to satisfy the judgment or order was made on the person liable to satisfy it and that he has refused or failed to do so; and
- (e) giving such other information as is necessary to satisfy the Court that the applicant is entitled to proceed to execution on the judgment or order in question and that the person against whom it is sought to issue execution is liable to execution on it.

(3) The Court hearing such application may grant leave in accordance with the application or may order that any issue or question, a decision on which is necessary to determine the rights of the parties, be tried in any manner in which any question of fact or law arising in an action may be tried and, in either case, may impose such terms as to costs or otherwise as it thinks just.

Issue of writ of execution (O. 46, r. 4).

4.—(1) Issue of a writ of execution takes place on its being sealed by an officer of the Registry.

(2) Before such a writ is issued a praecipe in one of the forms in Form 92 for its issue must be filed.

(3) The praecipe must be signed by the solicitor of the person entitled to execution or, if that person is acting in person, by him.

(4) No such writ shall be sealed unless at the time of the tender thereof for sealing —

(a) the person tendering it produces —

- (i) the judgment or order on which the writ is to issue, or an office copy thereof;

- (ii) where the writ may not issue without the leave of Court, the order granting such leave or evidence of the granting of it;
 - (iii) where Rule 5 (2) applies, the written permission of the Monetary Authority of Singapore therein referred to; and
- (b) the officer authorised to seal it is satisfied that the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act has expired.

(5) Every writ of execution shall bear the date of the day on which it is issued.

Writ and praecipe where Exchange Control Act (Chapter 99) applies (O. 46, r. 5).

5.—(1) Where any party entitled to enforce a judgment or order for the payment of money is resident outside the scheduled territories, then, unless the Monetary Authority of Singapore has given permission under the Exchange Control Act, for payment of money to him unconditionally or on conditions which have been complied with, any writ of execution to enforce that judgment or order must direct the Sheriff to pay the proceeds of execution into Court.

Notice of payment into Court in compliance with such a direction must be given by the Sheriff to the party by whom the writ of execution was issued or to his solicitor.

(2) Where the Monetary Authority of Singapore has given such permission unconditionally or on conditions which have been complied with, the praecipe for the issue of a writ of execution to enforce the judgment or order in question must be endorsed with such a certificate of that fact.

Duration and renewal of writ of execution (O. 46, r. 6).

6.—(1) For the purpose of execution, a writ of execution is valid in the first instance for 12 months beginning with the date of the issue.

(2) Where a writ has not been wholly executed, the Court may by order extend the validity of the writ from time to time for a period of 12 months at any time beginning with the day on which the order is made, if an application for extension is made to the Court before the day next following that on which the writ would otherwise expire.

(3) Before a writ the validity of which has been extended under this Rule is executed, the writ must be marked in Form 5 showing the date on which the order extending its validity was made.

(4) The priority of a writ, the validity of which has been extended under this Rule, shall be determined by reference to the date on which it was originally issued.

(5) The production of a writ of execution, purporting to be sealed as mentioned in paragraph (3), shall be evidence that the validity of that writ has been extended under this Rule.

Fees, expenses, etc., to be levied (O. 46, r. 7).

7. In every case of execution, the party entitled to execution may levy the commission, fees and expenses of execution over and above the sum recovered.

Costs of writ (O. 46, r. 8).

8. Subject to these Rules, the costs of and incidental to writs of execution or distress, whether executed or unexecuted, or unproductive, shall be allowed against the person liable, unless the Court otherwise orders.

Satisfaction by consent (O. 46, r. 9).

9.—(1) Any person who has satisfied a judgment debt may on filing a consent of the judgment creditor in Form 93 apply to the Court for satisfaction to be entered in the cause book and the Court may order satisfaction to be entered accordingly.

(2) The consent of the judgment creditor must be attested by his solicitor or if he has no solicitor, by a Commissioner for Oaths.

Where consent refused (O. 46, r. 10).

10.—(1) If a judgment creditor refuses or neglects to give such consent when requested, or cannot be found, the judgment debtor may apply to the Registrar for an order that satisfaction be entered.

(2) The summons must be served on the judgment creditor at least two clear days before the hearing thereof unless the Registrar otherwise orders.

(3) If on such application the Registrar is satisfied that the judgment debt has been satisfied and that the judgment creditor has no reasonable ground for refusing or neglecting to give such consent, the Registrar may order that satisfaction be entered in the cause book and that the judgment creditor pay the costs of and incidental to the application.

Deposit for costs of execution and date for execution (O. 46, r. 11).

11.—(1) Before any writ of execution or distress is executed, the person at whose instance the writ was issued (referred to in these Rules as the execution creditor) must, if the Sheriff so requests —

- (a) deposit in the Registry a sufficient sum of money to defray the costs of the execution; and

(b) file a praecipe in Form 93A for a date to be appointed for the execution.

(2) Where the execution creditor has caused a date appointed for the execution to be vacated or postponed, the Sheriff may direct that any fee paid in respect of the appointment shall not be recovered by the execution creditor as a disbursement unless good reason is shown for the vacation or postponement.

Where Sheriff in possession more than 14 days (O. 46, r. 12).

12. Where the Sheriff has to remain in possession of movable property for more than 14 days, the execution creditor must before or at the end of the first 14 days of the Sheriff keeping possession, deposit in the Registry, if the Sheriff so requests, a further sum of money to provide for the costs of execution for the next ensuing 14 days and must continue to make such deposits in advance before or at the end of each successive period of 14 days so long as the Sheriff continues in possession.

Proper officer to give receipt (O. 46, r. 13).

13.—(1) The proper officer in the Registry must give a receipt for each sum of money deposited and he shall apply such sums or so much thereof as is necessary for the costs of the execution.

(2) The Sheriff must return to the execution creditor any balance of money remaining over after the release of the person or the movable property seized, as the case may be, under the writ of execution or distress.

(3) Where the movable property seized under a writ of execution or distress is sold by the Sheriff or he receives the amount of the levy without sale, any sums of money deposited by the execution creditor must, so far as the moneys coming to the hands of the Sheriff will allow, be refunded to the execution creditor.

DUTIES OF SHERIFF

Time of lodgment to be forthwith endorsed on writ (O. 46, r. 14).

14. Whenever any writ of execution or distress is delivered to the Sheriff, he must endorse thereon the day, hour and minute of such delivery.

Time of execution (O. 46, r. 15).

15. Any writ of execution or distress may be executed between the hours of 9 a.m. and 4 p.m., unless the Sheriff otherwise orders.

Notice of seizure and inventory (O. 46, r. 16).

16.—(1) Where any movable property is seized by the Sheriff under a writ of execution or distress, he must give to the execution debtor a notice of seizure in Form 94, and a copy of the notice must be filed.

(2) Where the Sheriff removes from a place any movable property that is seized, he must give to the execution debtor at the time the property is removed or immediately afterwards an inventory of the property so removed.

(3) The notice of seizure under paragraph (1) and notice of removal and inventory under paragraph (2) may be —

- (a) handed to the execution debtor personally;
- (b) sent to him by post to his place of residence; or
- (c) left at or sent by post addressed to him at the place from which the property was seized.

Proper officer to keep records and to prepare statement of accounts (O. 46, r. 17).

17.—(1) The proper officer receiving any money under any writ of execution or distress must give for every sum so received a receipt.

(2) The proper officer must keep record of all sums of money received by him under a writ of execution or distress and of the manner in which he has applied them, and shall endorse on or annex to the writ a statement thereof.

(3) Subject to these Rules, the proper officer must prepare a statement of accounts in respect of the moneys received by him under a writ of execution or distress as follows:

- (a) first the Court fees and commission;
- (b) next the expenses of execution;
- (c) next moneys due to the execution creditor under Rule 13 which have not been returned to him;
- (d) next moneys claimed by the landlord, not exceeding 6 months' rent, due under a writ of distress in accordance with the provisions of section 20 of the Distress Act (Chapter 84);
- (e) next moneys available for payment to the execution creditor to satisfy the judgment or order in respect of which the execution was issued;
- (f) next where there is more than one writ of execution in his hands against the same defendant, moneys available to satisfy the various execution creditors in the order of the priority of their writs according to the dates of issue:

Provided that where an order for attachment of movable property before judgment has been made under the provisions of Part III of the Debtors Act (Chapter 73) and a writ of execution has been issued to enforce a judgment in the same action, such writ shall have priority according to the date on which the order of attachment before judgment was issued; and

- (g) next after accounting for the moneys available for payment to the execution creditors, show any balance due to the execution debtor.

(4) If the proceeds of the sale received by the proper officer are insufficient to cover the fees, commission and expenses of execution, the execution creditor must pay to the proper officer the amount of the deficiency and shall be entitled to add such amount to the judgment debt to be eventually recovered from the judgment debtor.

Sheriff to give information if required (O. 46, r. 18).

18.—(1) On a written application by the execution creditor, or the execution debtor, or any claimant to movable property seized by him, the Sheriff must within two days furnish to such applicant a memorandum stating —

- (a) the date on which the writ was delivered to him;
- (b) the amount leviable under the writ;
- (c) the particulars of property seized;
- (d) the place of seizure;
- (e) particulars of any claim to such property of which he has received notice;
- (f) the gross proceeds of sale;
- (g) the amount of the fees, commission and expenses; and
- (h) the moneys paid by him into the Registry and to whose credit.

(2) The Sheriff shall at all times permit the execution creditor, or judgment debtor, or any claimant to property seized by him to inspect and copy free of charge any inventory of property seized, sales account, or note of the fees, commission and expenses together with all vouchers in support thereof.

Date of arrest to be endorsed (O. 46, r. 19).

19. The Sheriff executing an order to arrest shall endorse thereon the day, hour and minute of the arrest.

Sheriff may be required to show cause for neglect of duty (O. 46, r. 20).

20. Any person aggrieved by any alleged non-observance by the Sheriff of any duty imposed on him by any written law or by these Rules, may apply to the Court for an order that the Sheriff show cause why he should not do the thing required, and the Sheriff may be required to show cause accordingly.

Payment out (O. 46, r. 21).

21. Subject to these Rules and to section 106 of the Bankruptcy Act 1995 (Act 15 of 1995), section 33 of the Employment Act (Chapter 91), and to any other written law, any sum of money paid by the Sheriff to the credit of the execution creditor, or by the judgment debtor, under Rule 17 shall, subject to any order of Court, be paid to the execution creditor or judgment debtor respectively on his application without an order:

Provided that the Sheriff may, in his discretion, require the execution creditor or judgment debtor, as the case may be, to apply to Court for an order for payment out.

SALE BY SHERIFF**Sheriff to sell (O. 46, r. 22).**

22. Subject to these Rules, the Sheriff must sell all property seized by him under a writ of execution or distress.

Sale by public auction (O. 46, r. 23).

23. Unless the Sheriff otherwise orders, all sales must be by public auction between the hours of 9 a.m. and 4 p.m. and notice in Form 95 of the day, hour and place of any intended sale must be posted on the notice board of the Registry and as far as practicable at the place of intended sale 7 days before the sale.

Where property exceeds \$2,000 sale by licensed auctioneer (O. 46, r. 24).

24.—(1) Where the value of the property attached or seized is estimated by the Sheriff to exceed \$2,000, the sale must, unless the Sheriff otherwise orders, be conducted by a licensed auctioneer and the sale must be publicly advertised by the Sheriff or auctioneer once 2 days before the date of sale.

(2) In any other case, the sale may be conducted by the Sheriff.

Negotiable instruments (O. 46, r. 25).

25. Negotiable instruments may be sold through the agency of a broker.

Sheriff may execute or endorse documents (O. 46, r. 26).

26. Where the execution or endorsement of any document is ordinarily lawfully required to give effect to any sale by the Sheriff, the Sheriff may execute or endorse such document; and the execution or endorsement thereof by the Sheriff shall have the same effect as the execution or endorsement by the judgment debtor.

When order made suspending execution (O. 46, r. 26A).

26A.—(1) An order under section 43 of the Subordinate Courts Act (Chapter 321), suspending or staying execution must be in Form 95A.

(2) The Court may order the person liable to execution to pay the costs of the writ and any fees or expenses incurred by the bailiff before the suspension of execution and may authorise the bailiff to sell a portion of the movable property seized sufficient to realise such costs, fees and expenses, and commission (if any).

Interpretation (O. 46, r. 27).

27. In this Order, where a writ of distress has been issued, the term “execution creditor” shall include a “landlord” and the term “judgment debtor” shall include a “tenant”.

ORDER 47**WRITS OF SEIZURE AND SALE****Power to stay execution by writ of seizure and sale (O. 47, r. 1).**

1.—(1) Where a judgment is given or an order made for the payment by any person of money, and the Court is satisfied, on an application made at the time of the judgment or order, or at any time thereafter, by the judgment debtor or other party liable to execution —

(a) that there are special circumstances which render it inexpedient to enforce the judgment or order; or

(b) that the applicant is unable from any cause to pay the money,

then, notwithstanding anything in Rule 2 or 3, the Court may by order stay the execution of the judgment or order by writ of seizure and sale either absolutely or for such period and subject to such conditions as the Court thinks fit.

(2) An application under this Rule, if not made at the time the judgment is given or order made, must be made by summons and may be so made notwithstanding that the party liable to execution did not enter an appearance in the action.

(3) An application made by summons must be supported by an affidavit made by or on behalf of the applicant stating the grounds of the application and the evidence necessary to substantiate them and, in particular, where such application is made on the grounds of the applicant's inability to pay, disclosing his income, the nature and value of any property of his and the amount of any other liabilities of his.

(4) The summons and a copy of the supporting affidavit must, not less than 4 clear days before the return day, be served on the party entitled to enforce the judgment or order.

(5) An order staying execution under this Rule may be varied or revoked by a subsequent order.

Payment by instalments (O. 47, r. 1A).

1A.—(1) Where judgment is given or an order is made for payment by instalments under section 43 of the Subordinate Courts Act (Chapter 321), the instalments shall, unless the Court otherwise orders, be paid into Court on such day as the judgment or order directs to the credit of the person entitled to enforce the judgment or order and a direction to that effect must be recited in the judgment or order.

(2) A copy of any judgment or order for payment by instalments must be served on the person liable to pay, and that person must produce it to the proper officer in the Registry whenever he pays money into Court.

(3) If no date for payment has been fixed by the Court, the first instalment shall be paid on the first day of the month following the date of the judgment or order, and every successive instalment shall be paid on the first day of each succeeding month.

Application for new instalment order (O. 47, r. 1B).

1B.—(1) In proceedings in the Subordinate Courts, where a judgment under section 43 of the Subordinate Courts Act is given or an order made for the payment of any money, by instalments or otherwise, either party to the judgment or order may apply to the Court by summons supported by an affidavit in Form 95B for an order that the money unpaid on the judgment or order be paid in one sum, or smaller or larger instalments than that previously ordered.

(2) The summons must be served on the other party to the judgment or order.

(3) The Court hearing the application may, as it thinks just, order that the money unpaid on the judgment or order be paid in one sum or make a new order for payment by instalments.

(4) An order made under paragraph (3) must be in Form 95C and must be served by the applicant on the other party.

Separate writs to enforce payment of costs, etc. (O. 47, r. 2).

2.—(1) Where only the payment of money, together with costs to be taxed, is adjudged or ordered, then, if when the money becomes payable under the judgment or order the costs have not been taxed, the party entitled to enforce that judgment or order may issue a writ of seizure and sale to enforce the judgment or order and, not less than 8 days after the issue of that writ, he may issue a second writ to enforce payment of the taxed costs.

(2) A party entitled to enforce a judgment or order for the delivery of possession of any property (other than money) may, if he so elects, issue a separate writ of seizure and sale to enforce payment of any damages or costs awarded to him by that judgment or order.

Where landlord claims arrears of rent of premises where property seized (O. 47, r. 3).

3.—(1) Where the landlord or any other person entitled to receive the rent of the premises in which any movable property has been seized by the Sheriff has any claims for arrears of rent of those premises, he may apply to the Court, at any time before the sale of such property, for a writ of distress for recovery of such arrears of rent.

(2) When a writ of distress has been issued the provisions of section 20 of the Distress Act (Chapter 84) shall apply.

(3) Unless a writ of distress is issued for the recovery of such arrears of rent, the property seized by the Sheriff shall be deemed not to be liable to be seized under a writ of distress and to be free from all claims in respect of rent and may be dealt with accordingly and the landlord or other person entitled to receive rent as aforesaid shall have no claim in respect of the property or to the proceeds of sale or any part thereof.

Immovable property (O. 47, r. 4).

4.—(1) Where the property to be seized consists of immovable property or any interest therein, the following provisions shall apply:

- (a) seizure shall be effected by registering under any written law relating to the immovable property a writ of seizure and sale in Form 88A (which for the purpose of this Rule and Rule 5 shall be called the order) attaching the interest of the judgment debtor in the immovable property described therein and, upon registration, such interest shall be deemed to be seized by the Sheriff;
- (b) an application for an order under this Rule may be made ex parte by summons;
- (c) the application must be supported by an affidavit —
 - (i) identifying the judgment or order to be enforced;

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- (ii) stating the name of the judgment debtor in respect of whose immovable property or interest an order is sought;
 - (iii) stating the amount remaining unpaid under the judgment or order at the time of application;
 - (iv) specifying the immovable property or the interest therein in respect of which an order is sought; and
 - (v) stating that to the best of the information or belief of the deponent, the immovable property or interest in question is the judgment debtor's and stating the sources of the deponent's information or the grounds for his belief;
- (d) as many copies of the order as the case may require shall be issued to the judgment creditor in order that he may present the order, in compliance with the provisions of any written law relating to such immovable property, for registration at the Registry of Deeds or the Land Titles Registry;
- (e) after registering the order, the judgment creditor must —
- (i) file a praecipe for direction to the Sheriff in Form 95D and a direction to the Sheriff in Form 95E; and
 - (ii) upon compliance with sub-paragraph (i), the Sheriff must serve a copy of the order and the notice of seizure in Form 95F on the judgment debtor forthwith and, if the judgment debtor cannot be found, must affix a copy thereof to some conspicuous part of the immovable property seized;
- (f) subject to sub-paragraph (g), any order made under this Rule shall, unless registered under any written law relating to such immovable property, remain in force for 6 months from the date thereof;
- (g) upon the application of any judgment creditor on whose application an order has been made, the Court, if it thinks just, may from time to time by order extend the period of 6 months referred to in sub-paragraph (f) for any period not exceeding 6 months, and the provisions of sub-paragraphs (d) and (e) shall apply to such order; and
- (h) the Court may at any time, on sufficient cause being shown, order that property seized under this Rule shall be released.
- (2) Order 46, Rule 6 (1) and (2), shall not apply to the order made under paragraph (1).

Sale of immovable property (O. 47, r. 5).

5. Sale of immovable property, or any interest therein, shall be subject to the following conditions:

- (a) there shall be no sale until the expiration of 30 days from the date of registration of the order under Rule 4 (1) (a);
- (b) the particulars and conditions of sale shall be settled by the Sheriff or his solicitor;
- (c) the judgment debtor may apply by summons to the Court for postponement of the sale in order that he may raise the amount leviable under the order by mortgage or lease, or sale of a portion only, of the immovable property seized, or by sale of any other property of the judgment debtor, or otherwise, and the Court, if satisfied that there is reasonable ground to believe that the said amount may be raised in any such manner, may postpone the sale for such period and on such terms as are just;
- (d) the judgment creditor may apply to the Court for the appointment of a receiver of the rents and profits, or a receiver and a manager of the immovable property, in lieu of sale thereof, and on such application, the Court may appoint such receiver or receiver and manager, and give all necessary directions in respect of such rents and profits or immovable property;
- (e) where the interest of the judgment debtor in any immovable property, seized and sold under the order, includes a right to the immediate possession thereof, the Sheriff shall put the purchaser in possession;
- (f) pending the execution or endorsement of any deed or document which is ordinarily lawfully required to give effect to any sale by the Sheriff, the Court may by order appoint the Sheriff to receive any rents and profits due to the purchaser in respect of the property sold; and
- (g) the Sheriff may at any time apply to the Court for directions with respect to the immovable property or any interest therein seized under the order and may, or, if the Court so directs, must give notice of the application to the judgment creditor, the judgment debtor and any other party interested in the property.

Securities (O. 47, r. 6).

6.—(1) Where the property to be seized consists of any Government stock, or any stock of any company or corporation registered or incorporated under any written law, including any such stock standing in the name of the Accountant-General, to which the judgment debtor is beneficially entitled, seizure thereof must be made by a notice in Form 88B, signed by the Sheriff, attaching such stock.

(2) The notice must be addressed —

- (a) in the case of Government stock, to the Accountant-General;
- (b) in the case of stock listed on the Stock Exchange of Singapore Ltd. and held under a central depository system, to the depository for the time being and the company or corporation concerned;
- (c) in the case of other stock, to the company or corporation concerned; and
- (d) in the case of stock standing in the name of the Accountant-General, to the Accountant-General,

and together with a copy of the writ of seizure and sale must be served by the Sheriff by any mode of service as he thinks fit.

(3) A copy of the notice must at the same time be sent to the judgment debtor at his address for service.

(4) On receipt of such notice, the judgment debtor must hand over to the Sheriff at his office any indicia of title in his possession relating to such stock, or where any such indicia of title are not in his possession, must notify the Sheriff in writing of the name and address of the person having possession thereof.

(5) The Sheriff must further send a copy of the notice to any person, other than the judgment debtor, in whose possession he has reason to believe any such indicia of title to be.

(6) After the receipt of any notice sent under paragraph (2), and unless the notice is withdrawn, no transfer of the stock or any interest therein, as the case may be, shall be registered or effected unless the transfer be executed or directed by the Sheriff, and any such transfer or direction by the Sheriff shall have the same effect as if the registered holder or beneficial owner of such stock had executed the transfer, and shall be dealt with accordingly.

(7) All interest or dividends becoming due and payable or benefits accruing after receipt of such notice, and until withdrawal thereof or transfer or direction by the Sheriff as abovementioned, must be paid or transmitted to the Sheriff.

(8) Any notice served under paragraph (2) may be withdrawn by notice in writing to that effect signed by the Sheriff and served to the person and in the manner provided by paragraph (2).

(9) In this Order, “Government stock” means any stock issued by the Government or any funds of or annuity granted by the Government and “stock” includes shares, debentures, debenture stock and stock options.

(10) The Court, on the application of the judgment debtor or any other person interested in the stock seized under this Rule, may at any time, on sufficient cause being shown, order that the stock or any part thereof be released.

Sale of securities (O. 47, r. 7).

7.—(1) Stock seized under Rule 6 may be sold through the agency of a broker.

(2) If the indicia of title are not in the possession of the Sheriff, he may apply to the Court for such directions as may be necessary to give effect to the sale.

After seizure, dealings with property void (O. 47, r. 8).

8. [Deleted]

Withdrawal and suspension of writ (O. 47, r. 9).

9.—(1) Where any execution creditor requests the Sheriff to withdraw the seizure, he shall be deemed to have abandoned the execution, and the Sheriff shall mark the writ of seizure and sale as withdrawn by request of the execution creditor:

Provided that where the request is made in consequence of a claim having been made in interpleader proceedings, the execution shall be deemed to be abandoned in respect only of the property so claimed.

(2) A writ of seizure and sale which has been withdrawn under this Rule shall not be re-issued but the execution creditor may apply by summons supported by affidavit stating the grounds of the application for a fresh writ of seizure and sale to be issued, and such writ shall take priority according to its date of issue.

ORDER 48**EXAMINATION OF JUDGMENT DEBTOR, ETC.****Order for examination of judgment debtor (O. 48, r. 1).**

1.—(1) Where a person has obtained a judgment or order for the payment by some other person (referred to in this Order as the judgment debtor) of money, the Court may, on an application made ex parte by summons supported by affidavit in Form 96 by the person entitled to enforce the judgment or order, order the judgment debtor, or, if the judgment debtor is a body corporate, an officer thereof, to attend before the Registrar, and be orally examined on whatever property the judgment debtor has and wheresoever situated, and the Court may also order the judgment debtor or officer to produce any books or documents in the possession of the judgment debtor relevant to the questions aforesaid at the time and place appointed for the examination.

(2) An order under this Rule must be in Form 97 and must be served personally on the judgment debtor and on any officer of a body corporate ordered to attend for examination.

(3) Any difficulty arising in the course of an examination under this Rule before the Registrar, including any dispute with respect to the obligation of the person being examined to answer any question put to him, may be referred to the Court and the Court may determine it or give such directions for determining it as it thinks fit.

Examination of party liable to satisfy the judgment (O. 48, r. 2).

2. Where any difficulty arises in or in connection with the enforcement of any judgment or order, other than such a judgment or order as is mentioned in Rule 1, the Court may make an order under that Rule for the attendance of the party liable to satisfy the judgment or order and for his examination on such questions as may be specified in the order, and that Rule shall apply accordingly with the necessary modifications.

Registrar to make record of debtor's statement (O. 48, r. 3).

3. The Registrar conducting the examination shall take down, or cause to be taken down, in writing the statement made by the judgment debtor or other person at the examination.

ORDER 49

GARNISHEE PROCEEDINGS

Attachment of debt due to judgment debtor (O. 49, r. 1).

1.—(1) Where a person (referred to in these Rules as the judgment creditor) has obtained a judgment or order for the payment by some other person (referred to in these Rules as the judgment debtor) of money, not being a judgment or order for the payment of money into Court, and any other person within the jurisdiction (referred to in this Order as the garnishee) is indebted to the judgment debtor, the Court may, subject to the provisions of this Order and of any written law, order the garnishee to pay the judgment creditor the amount of any debt due or accruing due to the judgment debtor from the garnishee, or so much thereof as is sufficient to satisfy that judgment or order and the costs of the garnishee proceedings.

(2) An order in Form 98 under this Rule shall in the first instance be an order to show cause, specifying the time and place for further consideration of the matter, and in the meantime attaching such debt as is mentioned in paragraph (1), or so much thereof as may be specified in the order, to answer the judgment or order mentioned in that paragraph and the costs of the garnishee proceedings.

(3) In this Order, “any debt due or accruing due” includes a current or deposit account with a bank or other financial institution (other than the Post Office Savings Bank), whether or not the deposit has matured and notwithstanding any restriction as to the mode of withdrawal.

Application for order (O. 49, r. 2).

2. An application for an order under Rule 1 must be made ex parte by summons supported by an affidavit in Form 99 —

- (a) identifying the judgment or order to be enforced and stating the amount remaining unpaid under it at the time of the application; and
- (b) stating that to the best of the information or belief of the deponent the garnishee (naming him) is within the jurisdiction and is indebted to the judgment debtor and stating the sources of the deponent's information or the grounds for his belief.

Service and effect of order to show cause (O. 49, r. 3).

3.—(1) An order under Rule 1 to show cause must, at least 7 days before the time appointed thereby for the further consideration of the matter, be served —

- (a) on the garnishee personally; and
- (b) unless the Court otherwise directs, on the judgment debtor.

(2) Such an order shall bind in the hands of the garnishee as from the service of the order on him any debt specified in the order or so much thereof as may be so specified.

No appearance or dispute of liability by garnishee (O. 49, r. 4).

4.—(1) Where on the further consideration of the matter the garnishee does not attend or does not dispute the debt due or claimed to be due from him to the judgment debtor, the Court may, subject to Rule 7, make an order absolute in one of the forms in Form 100 under Rule 1 against the garnishee.

(2) An order absolute under Rule 1 against the garnishee may be enforced in the same manner as any other order for the payment of money.

Dispute of liability by garnishee (O. 49, r. 5).

5. Where on the further consideration of the matter the garnishee disputes liability to pay the debt due or claimed to be due from him to the judgment debtor, the Court may summarily determine the question at issue or order in Form 101 that any question necessary for determining the liability of the garnishee be tried in any manner in which any question or issue in an action may be tried.

Claims of third persons (O. 49, r. 6).

6.—(1) If in garnishee proceedings it is brought to the notice of the Court that some person other than the judgment debtor is or claims to be entitled to the debt sought to be attached or has or claims to have a charge

or lien upon it, the Court may order that person to attend before the Court and state the nature of the claim with particulars thereof.

(2) After hearing any person who attends before the Court in compliance with an order under paragraph (1), the Court may summarily determine the questions at issue between the claimants or make such other order as it thinks just, including an order that any question or issue necessary for determining the validity of the claim of such other person as is mentioned in paragraph (1) be tried in such manner as is mentioned in Rule 5.

Judgment creditor resident outside scheduled territories (O. 49, r. 7).

7.—(1) The Court shall not make an order under Rule 1 requiring the garnishee to pay any sum to or for the credit of any judgment creditor resident outside the scheduled territories unless that creditor produces a certificate that the Monetary Authority of Singapore has given permission under the Exchange Control Act (Chapter 99), for the payment unconditionally or on conditions which have been complied with.

(2) If it appears to the Court that payment by the garnishee to the judgment creditor will contravene any provision of the Exchange Control Act, it may order the garnishee to pay into Court the amount due to the judgment creditor and the costs of the garnishee proceedings after deduction of his own costs, if the Court so orders.

Discharge of garnishee (O. 49, r. 8).

8. Any payment made by a garnishee in compliance with an order absolute under this Order, and any execution levied against him in pursuance of such an order, shall be a valid discharge of his liability to the judgment debtor to the extent of the amount paid or levied notwithstanding that the garnishee proceedings are subsequently set aside or the judgment or order from which they arose reversed.

Money in Court (O. 49, r. 9).

9.—(1) Where money is standing to the credit of the judgment debtor in Court, the judgment creditor shall not be entitled to take garnishee proceedings in respect of that money but may apply to the Court by summons for an order that the money or so much thereof as is sufficient to satisfy the judgment or order sought to be enforced and the costs of the application be paid to the judgment creditor.

(2) On issuing a summons under this Rule the applicant must produce the summons at the office of the Accountant-General and leave a copy at that office, and the money to which the application relates shall not be paid out of Court until after the determination of the application.

If the application is dismissed, the applicant must give notice of that fact to the Accountant-General.

(3) Unless the Court otherwise directs, the summons must be served on the judgment debtor at least 7 days before the day named therein for the hearing of it.

(4) Subject to Order 70, Rule 23, the Court hearing an application under this Rule may make such order with respect to the money in Court as it thinks just.

Costs (O. 49, r. 10).

10. The costs of any application for an order under Rule 1 or 9, and of any proceedings arising therefrom or incidental thereto, shall, unless the Court otherwise directs, be retained by the judgment creditor out of the money recovered by him under the order and in priority to the judgment debt.

ORDER 50

STOP ORDERS, ETC.

Securities not in Court: Stop notice (O. 50, r. 1).

1.—(1) Any person claiming to be beneficially entitled to an interest in any securities to which this Rule applies, other than securities in Court, who wishes to be notified of any proposed transfer or payment of those securities may avail himself of the provisions of this Rule.

(2) A person claiming to be so entitled must file in the Registry —

(a) an affidavit identifying the securities in question and describing his interest therein by reference to the document under which it arises; and

(b) a notice in Form 106 signed by the deponent to the affidavit, and annexed to it, addressed to the Accountant-General or, as the case may be, the company concerned,

and must serve an office copy of the affidavit, and a copy of the notice sealed with the seal of the Supreme Court or Subordinate Courts, as the case may be, on the Accountant-General or that company.

(3) There must be endorsed on the affidavit filed under this Rule a notice stating the address to which any such notice as is referred to in Rule 2 (1) is to be sent and, subject to paragraph (4), that address shall for the purpose of that Rule be the address for service of the person on whose behalf the affidavit is filed.

(4) A person on whose behalf an affidavit under this Rule is filed may change his address for service for the purpose of Rule 2 by serving on the Accountant-General or, as the case may be, the company concerned, a

notice to that effect, and as from the date of service of such a notice, the address stated therein shall for the purpose of that Rule be the address for service of that person.

(5) The securities to which this Rule applies are —

(a) any Government stock, and any stock of any company or corporation registered or incorporated under any written law, including any such stock standing in the name of the Accountant-General; and

(b) any dividend of or interest payable on such stock.

(6) In this Order, “Government stock” means any stock issued by the Government or any funds of or annuity granted by the Government, and “stock” includes shares, debentures, debenture stock and stock options.

Effect of stop notice (O. 50, r. 2).

2.—(1) Where a notice under Rule 1 has been served on the Accountant-General or a company, then, so long as the notice is in force, the Accountant-General or the company shall not register a transfer of any stock or make a payment of any dividend or interest, being a transfer or payment restrained by the notice, without serving on the person on whose behalf the notice was filed at his address for service a notice informing him of the request for such transfer or payment.

(2) Where the Accountant-General or a company receives a request for such a transfer or payment as is mentioned in paragraph (1) made by or on behalf of the holder of the securities to which the notice under Rule 1 relates, the Accountant-General or the company shall not by reason only of that notice refuse to register the transfer or make the payment for longer than 8 days after receipt of the request except under the authority of an order of the Court.

Amendment of stop notice (O. 50, r. 3).

3. If any securities are incorrectly described in a notice filed under Rule 1, the person on whose behalf the notice was filed may file in the Registry an amended notice and serve on the Accountant-General or, as the case may be, the company concerned a copy of that notice sealed with the seal of the Supreme Court or Subordinate Courts, as the case may be, and where he does so the notice under Rule 1 shall be deemed to have been served on the Accountant-General or company on the day on which the copy of the amended notice was served on it.

Withdrawal, etc., of stop notice (O. 50, r. 4).

4.—(1) The person on whose behalf a notice under Rule 1 was filed may withdraw it by serving a request for its withdrawal on the Accountant-General or, as the case may be, the company on whom the notice was served.

(2) Such request must be signed by the person on whose behalf the notice was filed and his signature must be witnessed by a practising solicitor.

(3) The Court, on the application of any person claiming to be beneficially entitled to an interest in the securities to which a notice under Rule 1 relates, may by order discharge the notice.

(4) An application for an order under paragraph (3) must be made by originating summons, and the summons must be served on the person on whose behalf the notice under Rule 1 was filed.

No appearance need be entered to the summons.

Order prohibiting transfer, etc., of securities (O. 50, r. 5).

5.—(1) The Court, on the application of any person claiming to be beneficially entitled to an interest in any Government stock or any stock of any company registered under any written law, may by order in Form 107 prohibit the Accountant-General or, as the case may be, that company from registering any transfer of such part of that stock as may be specified in the order or from paying any dividend thereof or interest thereon.

The name of the holder of the stock to which the order relates shall be stated in the order.

(2) An application for an order under this Rule must be made by summons.

(3) The Court, on the application of any person claiming to be entitled to an interest in any stock to which an order under this Rule relates, may vary or discharge the order on such terms (if any) as to costs as it thinks fit.

Funds in Court: stop order (O. 50, r. 6).

6.—(1) The Court, on the application of any person —

(a) who has a mortgage or charge on the interest of any person in funds in Court;

(b) to whom that interest has been assigned; or

(c) who is a judgment creditor of the person entitled to that interest,

may make an order prohibiting the transfer, sale, delivery out, payment or other dealing with such funds, or any part thereof, or the income thereon, without notice to the applicant.

(2) An application for an order under this rule must be made by summons in the cause or matter relating to the funds in Court, or, if there is no such cause or matter, by originating summons.

(3) The summons must be served on every person whose interest may be affected by the order applied for and on the Accountant-General but shall not be served on any other person.

(4) Without prejudice to the Court's powers and discretion as to costs, the Court may order the applicant for an order under this rule to pay the costs of any party to the cause or matter relating to the funds in question, or of any person interested in those funds, occasioned by the application.

ORDER 51

RECEIVERS: EQUITABLE EXECUTION

Appointment of receivers by way of equitable execution (O. 51, r. 1).

1.—(1) Where an application is made for the appointment of a receiver by way of equitable execution, the Court in determining whether it is just or convenient that the appointment should be made shall have regard to the amount claimed by the judgment creditor, to the amount likely to be obtained by the receiver and to the probable costs of his appointment and may direct an inquiry on any of these matters or any other matter before making the appointment.

(2) Where on an application for the appointment of a receiver by way of equitable execution it appears to the Court that the judgment creditor is resident outside the scheduled territories, or is acting by order or on behalf of a person so resident, then, unless the permission of the Monetary Authority of Singapore required by the Exchange Control Act (Chapter 99) has been given unconditionally or on conditions that have been complied with, any order for the appointment of a receiver shall direct that the receiver shall pay into Court to the credit of the cause or matter in which he is appointed any balance due from him after deduction of his proper remuneration.

Registrar may appoint receiver, etc. (O. 51, r. 2).

2. Subject to any directions given by the Court under Order 32, Rule 9, the Registrar shall have power to make an order for the appointment of a receiver by way of equitable execution and to grant an injunction if, and only so far as, the injunction is ancillary or incidental to such an order.

Application of Rules as to appointment of receiver, etc. (O. 51, r. 3).

3.—(1) An application for the appointment of a receiver by way of equitable execution may be made in accordance with Order 30, Rule 1, and Rules 2 to 6 of that Order shall apply in relation to a receiver appointed by way of equitable execution as they apply in relation to a receiver appointed for any other purpose.

(2) The summons for the appointment of a receiver must be in Form 108 and an order for the appointment of a receiver by way of equitable execution must be in one of the forms in Form 109.

ORDER 52**COMMITTAL****Committal for contempt of Court (O. 52, r. 1).**

1.—(1) The power of the Court or the Court of Appeal to punish for contempt of Court may be exercised by an order of committal in Form 110.

(2) Where contempt of Court is committed in connection with —

(a) any proceedings in the High Court; or

(b) any proceedings in the Subordinate Courts,

an order of committal may be made by the High Court or Subordinate Courts, as the case may be.

(3) Where contempt of Court is committed otherwise than in connection with any proceedings, an order of committal may be made only by the High Court.

(4) Where contempt of the Court of Appeal is committed, an order of committal may be made by the High Court or the Court of Appeal.

(5) Where by virtue of any written law the High Court has power to punish or take steps for the punishment of any person charged with having done anything in relation to a court, tribunal or person which would, if it had been done in relation to the High Court, have been a contempt of that Court, an order of committal may be made by the High Court.

Application to Court (O. 52, r. 2).

2.—(1) No application to a Court for an order of committal against any person may be made unless leave to make such an application has been granted in accordance with this Rule.

(2) An application for such leave must be made ex parte to a Judge and must be supported by a statement setting out the name and description of the applicant, the name, description and address of the person sought to be committed and the grounds on which his committal is sought, and by an affidavit, to be filed when the application is made, verifying the facts relied on.

Application for order after leave to apply granted (O. 52, r. 3).

3.—(1) When leave has been granted under Rule 2 to apply for an order of committal, the application for the order must be made in the summons or the action in which leave was obtained, and, unless the Judge granting leave has otherwise directed, there must be at least 8 clear days between the service of the application and the day named therein for the hearing.

(2) The application for the order of committal must be made by motion in the Supreme Court and by summons in the Subordinate Courts.

(3) Unless within 14 days after such leave was granted the application for the order of committal is entered for hearing, the leave shall lapse.

(4) Subject to paragraph (5), the ex parte summons, the statement and the affidavit in support of the application for leave under Rule 2, the order granting leave and the application for the order of committal must be served personally on the person sought to be committed.

(5) Without prejudice to Order 62, Rule 5, the Court may dispense with service of the documents stated in paragraph (4) if he thinks it just to do so.

Saving for power to commit without application (O. 52, r. 4).

4. Nothing in Rules 1, 2 and 3 shall be taken as affecting the power of the High Court or the Court of Appeal to make an order of committal of its own motion against a person guilty of contempt of Court.

Provisions as to hearing (O. 52, r. 5).

5.—(1) Subject to paragraph (2), the Court hearing an application for an order of committal may sit in private in the following cases:

- (a) where the application arises out of proceedings relating to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;
- (b) where the application arises out of proceedings relating to a person suffering or appearing to be suffering from mental disorder within the meaning of the Mental Disorders and Treatment Act (Chapter 178);
- (c) where the application arises out of proceedings in which a secret process, discovery or invention was in issue; and
- (d) where it appears to the Court that in the interests of the administration of justice or for reasons of national security the application should be heard in private,

but, except as aforesaid, the application shall be heard in open Court.

(2) If the Court hearing an application in private by virtue of paragraph (1) decides to make an order of committal against the person sought to be committed, it shall in open Court state —

- (a) the name of that person;
- (b) in general terms the nature of the contempt of Court in respect of which the order of committal is being made; and

(c) if he is being committed for a fixed period, the length of that period.

(3) Except with the leave of the Court hearing an application for an order of committal, no grounds shall be relied upon at the hearing except the grounds set out in the statement under Rule 2.

The foregoing provision is without prejudice to the powers of the Court under Order 20, Rule 8.

(4) If on the hearing of the application the person sought to be committed expresses a wish to give oral evidence on his own behalf, he shall be entitled to do so.

Power to suspend execution of committal order (O. 52, r. 6).

6.—(1) The Court may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

(2) Where execution of an order of committal is suspended by an order under paragraph (1), the applicant for the order of committal must, unless the Court otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the order under that paragraph.

Discharge of person committed (O. 52, r. 7).

7.—(1) The Court may, on the application of any person committed to prison for any contempt of Court, discharge him.

(2) Where a person has been committed for failing to comply with a judgment or order requiring him to deliver any thing to some other person or to deposit it in Court or elsewhere, then, if the thing is in the custody or power of the person committed, the Sheriff may take possession of it as if it were the property of that person and, without prejudice to the generality of paragraph (1), the Court may discharge the person committed and may give such directions for dealing with the thing taken by the Sheriff as it thinks fit.

Saving for other powers (O. 52, r. 8).

8. Nothing in Rules 1 to 7 shall be taken as affecting the power of the Court to make an order requiring a person guilty of contempt of Court, or a person punishable by virtue of any written law in like manner as if he had been guilty of contempt of Court, to pay a fine or to give security for his good behaviour, and those Rules, so far as applicable, and with the necessary modifications, shall apply in relation to an application for such an order as they apply in relation to an application for an order of committal.

Form of warrant for committal (O. 52, r. 9).

9. A warrant for committal must be in Form 111.

ORDER 53**APPLICATION FOR ORDER OF MANDAMUS, PROHIBITION,
CERTIORARI, ETC.****No application for order of mandamus, etc., without leave (O. 53, r. 1).**

1.—(1) No application for an order of mandamus, prohibition or *certiorari* shall be made unless leave to make such an application has been granted in accordance with this Rule.

(2) An application for such leave must be made by *ex parte* originating summons and must be supported by a statement setting out the name and description of the applicant, the relief sought and the grounds on which it is sought, and by an affidavit, to be filed when the application is made, verifying the facts relied on.

(3) The applicant must serve the *ex parte* originating summons, the statement and the affidavit not later than the preceding day on the Attorney-General's Chambers.

(4) The Judge may, in granting leave, impose such terms as to costs and as to giving security as he thinks fit.

(5) The grant of leave under this Rule to apply for an order of prohibition or an order of *certiorari* shall, if the Judge so directs, operate as a stay of the proceedings in question until the determination of the application or until the Judge otherwise orders.

(6) Notwithstanding the foregoing, leave shall not be granted to apply for an order of *certiorari* to remove any judgment, order, conviction or other proceeding for the purpose of its being quashed, unless the application for leave is made within 6 months after the date of the proceeding or such other period (if any) as may be prescribed by any written law or, except where a period is so prescribed, the delay is accounted for to the satisfaction of the Judge to whom the application for leave is made; and where the proceeding is subject to appeal and a time is limited by law for the bringing of the appeal, the Judge may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

Mode of applying for order of mandamus, etc. (O. 53, r. 2).

2.—(1) When leave has been granted to apply for an order of mandamus, prohibition or *certiorari*, the application for such order must be made by motion to a Court in the originating summons in which leave was obtained and, unless the Judge granting leave has otherwise directed,

there must be at least 8 clear days between the service of the notice of motion and the day named therein for the hearing.

(2) Unless within 14 days after such leave was granted the motion is entered for hearing, the leave shall lapse.

(3) The *ex parte* originating summons, the statement and the affidavit in support of the application for leave, the order granting leave and the notice of motion must be served on all persons directly affected, and where it relates to any proceedings in or before a Court, and the object is either to compel the Court or an officer thereof to do any act in relation to the proceedings or to quash them or any order made therein, the said documents must be served on the Registrar, the other parties to the proceedings and, where any objection to the conduct of the Judge is to be made, on the Judge.

(4) An affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with the said documents must be filed before the hearing and, if any person who ought to be served under paragraph (3) has not been served, the affidavit must state that fact and the reason why service has not been effected.

(5) If on the hearing of the motion the Court is of opinion that any person who ought to have been served with the said documents has not been served, whether or not he is a person who ought to have been served under paragraph (3), the Court may adjourn the hearing on such terms (if any) as it may direct in order that the said documents may be served on that person.

Statements and further affidavits (O. 53, r. 3).

3.—(1) Subject to paragraph (2), no grounds shall be relied upon or any relief sought at the hearing of the motion except the grounds and relief set out in that statement.

(2) The Court may on the hearing of the motion allow the said statement to be amended, and may allow further affidavits to be used if they deal with new matter arising out of any affidavit of any other party to the application, and where the applicant intends to ask to be allowed to amend his statement or use further affidavits, he must give notice of his intention and of any proposed amendment of his statement to every other party, and must serve a copy of such further affidavits on every other party.

(3) Every party to the application must serve a copy of the affidavits which he proposes to use at the hearing on every other party.

Right to be heard in opposition (O. 53, r. 4).

4. On the hearing of any motion under Rule 2, any person who desires to be heard in opposition to the motion and appears to the Court to be a proper person to be heard shall be heard notwithstanding that he has not been served with any documents.

Application for order of *certiorari* to quash proceedings (O. 53, r. 5).

5.—(1) In the case of an application for an order of *certiorari* to remove any proceedings for the purpose of their being quashed, the applicant may not question the validity of any order, warrant, commitment, conviction, inquisition or record unless before the hearing of the motion he has served a copy thereof verified by affidavit on the Attorney-General, or accounts for his failure to do so to the satisfaction of the Court hearing the motion.

(2) Where an order of *certiorari* is made in any such case, the order shall direct that the proceedings shall be quashed forthwith on their removal to the High Court.

Saving for person acting in obedience to mandamus (O. 53, r. 6).

6. No action or proceeding shall be begun or prosecuted against any person in respect of anything done in obedience to an order of mandamus.

Appeal to Court of Appeal (O. 53, r. 7).

7. Where leave to apply for an order of mandamus, prohibition or *certiorari* has been refused by a Judge, an application for such leave may be made to the Court of Appeal under Order 57, Rule 16.

Application (O. 53, r. 8).

8. This Order is not applicable to the Subordinate Courts.

ORDER 54**APPLICATION FOR WRIT OF *HABEAS CORPUS*****Application for writ of *habeas corpus ad subjiciendum* (O. 54, r. 1).**

1.—(1) This Order applies to writs of *habeas corpus ad subjiciendum* which, for the purpose of this Order, shall be referred to as the writ of *habeas corpus*.

(2) An application for a writ of *habeas corpus* must be made by ex parte originating summons to a Judge and, subject to paragraph (3), must be supported by an affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(3) Where the person restrained is unable for any reason to make the affidavit required by paragraph (2), the affidavit may be made by some other person on his behalf and that affidavit must state that the person restrained is unable to make the affidavit himself and for what reason.

Power of Court to whom ex parte application made (O. 54, r. 2).

- 2.—(1) The Judge to whom an application under Rule 1 is made may —
- (a) make an order forthwith for the writ of *habeas corpus* to issue; or
 - (b) direct that a notice of motion for the writ of *habeas corpus* be issued.

(2) The ex parte originating summons, the affidavit in support thereof, the Order of Court and the notice of motion must be served on the person against whom the issue of the writ is sought and on such other persons as the Judge may direct and, unless the Judge otherwise directs, there must be at least 8 clear days between the service of the notice of motion and the date named therein for the hearing.

Copies of affidavits to be supplied (O. 54, r. 3).

3. Every party to an application for a writ of *habeas corpus* must serve a copy of each of the affidavits which he proposes to use at the hearing on every other party.

Power to order release of person restrained (O. 54, r. 4).

4.—(1) Without prejudice to Rule 2 (1), the Judge hearing an application for a writ of *habeas corpus* may in his discretion order that the person restrained be released, and such order shall be a sufficient warrant to any superintendent of a prison or other person for the release of the person under restraint.

(2) During the hearing of an application for a writ of *habeas corpus*, the person restrained need not be brought before the Court unless the Judge otherwise directs.

Directions as to return to writ (O. 54, r. 5).

5. Where a writ of *habeas corpus* is ordered to issue, the Judge by whom the order is made shall give directions as to the date on which the person under restraint is to be brought before the Court.

Service of writ of habeas corpus (O. 54, r. 6).

6.—(1) Subject to paragraph (2), a writ of *habeas corpus* must be served personally on each of the persons to whom it is directed.

(2) If it is not possible to serve such writ personally, or if it is directed to a superintendent of a prison or other public official, it must be served by leaving it with an employee or agent of the person to whom the writ of *habeas corpus* is directed at the place where the person restrained is confined or restrained.

(3) [Deleted]

(4) [Deleted]

Release and other directions (O. 54, r. 7).

7.—(1) Upon the production of the person under restraint in Court, the Court may order that he be released forthwith or give such other directions as it deems fit.

(2) [Deleted]

Form of writ (O. 54, r. 8).

8. A writ of *habeas corpus* must be in Form 113.

Application (O. 54, r. 9).

9. This Order is not applicable to the Subordinate Courts.

ORDER 55**APPEALS TO HIGH COURT FROM COURT,
TRIBUNAL OR PERSON****Application (O. 55, r. 1).**

1.—(1) Subject to paragraphs (2) and (4), this Order shall apply to every appeal which under any written law lies to the High Court from any court, tribunal or person.

(2) This Order shall not apply to an appeal from a Subordinate Court constituted under the Subordinate Courts Act (Chapter 321) or any application by case stated.

(3) Rules 2 to 7 shall, in relation to an appeal to which the Order applies, have effect subject to any provision made in relation to that appeal by any other provision of these Rules or under any written law.

(4) In this Order, references to a tribunal shall be construed as references to any tribunal constituted under any written law other than any of the ordinary courts of law.

Bringing of appeal (O. 55, r. 2).

2.—(1) An appeal to which this Order applies shall be by way of rehearing and must be brought by originating motion.

(2) Every notice of the motion by which such an appeal is brought must be filed in the Registry and must state the grounds of the appeal and, if the appeal is against a judgment, order or other decision of a court, must state whether the appeal is against the whole or a part of that decision and, if against a part only, must specify the part.

(3) The bringing of such an appeal shall not operate as a stay of proceedings on the judgment, determination or other decision against which the appeal is brought unless the Court by which the appeal is to be heard or the court, tribunal or person by which or by whom the decision was given so orders.

Service of notice of motion and entry of appeal (O. 55, r. 3).

3.—(1) The persons to be served with notice of the motion by which an appeal to which this Order applies is brought are the following:

- (a) if the appeal is against a judgment, order or other decision of a Court, the Registrar or clerk of the Court and any party to the proceedings in which the decision was given who is directly affected by the appeal;
- (b) if the appeal is against an order, determination, award or other decision of a tribunal, Minister, Government department or other person, the chairman of the tribunal, Minister, Government department or person, as the case may be, and every party to the proceedings (other than the appellant) in which the decision appealed against was given.

(2) The notice must be served within 28 days after the date of the judgment, order, determination or other decision against which the appeal is brought.

(3) In the case of an appeal against a judgment, order or decision of a Court, the period specified in paragraph (2) shall be calculated from the date of the judgment or order or the date on which the decision was given.

(4) In the case of an appeal against an order, determination, award or other decision of a tribunal, Minister, Government department or other person, the period specified in paragraph (2) shall be calculated from the date on which notice of decision was given to the appellant by the person who made the decision or by a person authorised in that behalf to do so.

Date of hearing of appeal (O. 55, r. 4).

4. Unless the Court having jurisdiction to determine otherwise directs, an appeal to which this Order applies shall not be heard sooner than 21 days after service of notice of the motion by which the appeal is brought.

Amendment of grounds of appeal, etc. (O. 55, r. 5).

5.—(1) The notice of the motion by which an appeal to which this Order applies is brought may be amended by the appellant, without leave, by supplementary notice served not less than 7 days before the day appointed for the hearing of the appeal, on each of the persons on whom the notice to be amended was served.

(2) Within two days after service of a supplementary notice under paragraph (1), the appellant must lodge two copies of the notice in the Registry.

(3) Except with the leave of the Court hearing any such appeal, no grounds other than those stated in the notice of motion by which the appeal is brought or any supplementary notice under paragraph (1) may be relied upon by the appellant at the hearing; but the Court may amend the grounds so stated or make any other order, on such terms as it thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

(4) Paragraphs (1) to (3) are without prejudice to the powers of the Court under Order 20.

Powers of Court hearing appeal (O. 55, r. 6).

6.—(1) In addition to the powers conferred by Rule 5 (3), the Court hearing an appeal to which this Order applies shall have the powers conferred by paragraphs (2) to (7).

(2) The Court shall have power to require further evidence on questions of fact, and the evidence may be given in such manner as the Court may direct either by oral examination in Court, by affidavit, by deposition taken before an examiner or in some other manner.

(3) The Court shall have power to draw any inferences of fact which might have been drawn in the proceedings out of which the appeal arose.

(4) It shall be the duty of the appellant to apply to the Judge or other person presiding at the proceedings in which the decision appealed against was given for a signed copy of any note made by him of the proceedings and to furnish that copy for the use of the Court; and in default of production of such a note, or, if such a note is incomplete, in addition to that note, the Court may hear and determine the appeal on any other evidence or statement of what occurred in those proceedings as appears to the Court to be sufficient.

Except where the Court otherwise directs, an affidavit or note by a person present at the proceedings shall not be used in evidence under this paragraph unless it was previously submitted to the person presiding at the proceedings for his comments.

(5) The Court may give any judgment or decision or make any order which ought to have been given or made by the Court, tribunal or person and make such further or other order as the case may require or may remit the matter with the opinion of the Court for rehearing and determination by it or him.

(6) The Court may, in special circumstances, order that such security shall be given for the costs of the appeal as may be just.

(7) The Court shall not be bound to allow the appeal on the ground of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court substantial wrong or miscarriage has been thereby occasioned.

Right of Minister, etc., to appear and be heard (O. 55, r. 7).

7. Where an appeal to which this Order applies is against an order, determination or other decision of a Minister or Government department, the Minister or department, as the case may be, shall be entitled to appear and be heard in the proceedings on the appeal.

ORDER 55A

APPLICATIONS TO HIGH COURT BY CASE STATED

Application (O. 55A, r. 1).

1.—(1) Subject to paragraphs (2) and (4), this Order shall apply to every application for an order to state a case and application by way of case stated which under any written law lies to the High Court from any tribunal or person.

(2) This Order shall not apply to an application arising out of proceedings in a Subordinate Court constituted under the Subordinate Courts Act (Chapter 321).

(3) Rules 2 to 6 shall, in relation to an application to which the Order applies, have effect subject to any provision made in relation to that application by any other provision of these Rules or under any written law.

(4) In this Order, references to a tribunal shall be construed as references to any tribunal constituted under any written law other than any of the ordinary courts of law.

Application for order to state a case (O. 55A, r. 2).

2.—(1) An application to the Court for an order directing a Minister, tribunal or other person to state a case for determination by the Court or to refer a question of law to the Court by way of case stated must be made by originating motion; and the persons to be served with notice thereof are the Minister, secretary of the tribunal or other person, as the case may be, and every party (other than the applicant) to the proceedings to which the application relates.

(2) The notice of such motion must state the grounds of the application, the question of law on which it is sought to have the case stated and any reasons given by the Minister, tribunal or other person for his or its refusal to state a case, if any.

Signing and service of case (O. 55A, r. 3).

3.—(1) A case stated by a tribunal must be signed by the chairman or president of the tribunal, and a case stated by any other person must be signed by him or by a person authorised in that behalf to do so.

(2) The case must be served on the party at whose request, or as a result of whose application to the Court, the case was stated; and if a Minister, tribunal, arbitrator or other person is entitled by virtue of any enactment to state a case, or to refer a question of law by way of case stated, for determination by the High Court without request being made by any party to the proceedings before that person, the case must be served on such party to those proceedings as the Minister, tribunal, arbitrator or other person, as the case may be, thinks appropriate.

(3) When a case is served on any party under paragraph (2), notice must be given to every other party to the proceedings in question that the case has been served on the party named, and on the date specified, in the notice.

Proceedings for determination of case (O. 55A, r. 4).

4.—(1) Proceedings for the determination by the High Court of a case stated, or a question of law referred by way of case stated, by a Minister, tribunal, arbitrator or other person must be begun by originating motion by the person on whom the case was served in accordance with Rule 3 (2) or, where the case is stated without a request being made, by the Minister, secretary of the tribunal, arbitrator or other person by whom the case is stated.

(2) The applicant shall serve notice of a motion under paragraph (1), together with a copy of the case, on —

- (a) the Minister, secretary of the tribunal, arbitrator or other person by whom the case was stated, unless that Minister, tribunal, arbitrator or other person is the applicant;
- (b) every party (other than the applicant) to the proceedings in which the question of law to which the case relates arose; and
- (c) any other person (other than the applicant) served with the case under Rule 3 (2).

(3) The notice of such motion must set out the applicant's contentions on the question of law to which the case stated relates.

(4) The motion must be entered for hearing, and the notice thereof served, within 14 days after the case stated was served on the applicant.

(5) If the applicant fails to enter the motion within the period specified in paragraph (4) then, after obtaining a copy of the case from the Minister, tribunal, arbitrator or other person by whom the case was stated, any other party to the proceedings in which the question of law to

which the case relates arose may, within 14 days after the expiration of the period so specified, begin proceedings for the determination of the case, and paragraphs (1) to (4) shall have effect accordingly with the necessary modifications.

The references in this paragraph to the period specified in paragraph (4) shall be construed as including references to that period as extended by any order of the Court.

(6) Unless the Court having jurisdiction to determine the case otherwise directs, the motion shall not be heard sooner than 7 days after service of notice of the motion.

Amendment of case (O. 55A, r. 5).

5. The Court hearing a case stated by a Minister, tribunal, arbitrator or other person may amend the case or order it to be returned to that person for amendment, and may draw inferences of fact from the facts stated in the case.

Right of Minister to appear and be heard (O. 55A, r. 6).

6. In proceedings for the determination of a case stated, or of a question of law referred by way of case stated, the Minister, chairman or president of the tribunal, arbitrator or other person by whom the case was stated shall be entitled to appear and be heard.

ORDER 55B

APPEALS FROM REGISTRAR IN PROCEEDINGS
IN SUBORDINATE COURTS

Appeals from decisions of Registrar to District Judge in Chambers (O. 55B, r. 1).

1.—(1) Except where Order 14, Rule 14 is applicable, an appeal shall lie to a District Judge in Chambers from any judgment, order or decision of the Registrar.

(2) The appeal shall be brought by serving on every other party to the proceedings in which the judgment, order or decision was given or made a notice in Form 114 to attend before the District Judge on a day specified in the notice.

(3) Unless the Court otherwise orders, the notice must be issued within 14 days after the judgment, order or decision appealed against was given or made and served on all other parties within 7 days of it being issued.

(4) Except so far as the Court may otherwise direct, an appeal under this Rule shall not operate as a stay of the proceedings in which the appeal is brought.

Appeal from District Judge in Chambers (O. 55B, r. 2).

2. [Deleted]

Application (O. 55B, r. 3).

3. This Order shall only apply to proceedings in the Subordinate Courts.

ORDER 55C**APPEALS FROM SUBORDINATE COURTS****Notice of appeal (O. 55C, r. 1).**

- 1.—(1) An appeal to the High Court must be brought by notice of appeal in Form 114A.

- (2) Notice of appeal may be given either in respect of the whole or in respect of any specified part of the judgment or order of the Court, and every such notice must state whether the whole or part only, and what part, of the judgment or order is complained of, contain an address for service, and be signed by the appellant or his solicitor.

- (3) The appellant must at the time of filing the notice of appeal deposit in the Registry such sum as the registrar may require towards the fee for making copies of the record of proceedings.

- (4) The registrar must assign a number to the notice of appeal and enter the appeal on the list of appeals.

- (5) The notice of appeal must be served on all parties to the proceedings who are directly affected by the appeal or their solicitors respectively at the time of filing the notice of appeal.

Time for appealing (O. 55C, r. 2).

2. Every notice of appeal must be filed and served under Rule 1 (5) within 14 days calculated from the date on which the judgment or order of the Court was given or made.

Security for costs (O. 55C, r. 3).

- 3.—(1) The appellant must at the time of filing the notice of appeal deposit a sum of \$2,000 for Magistrate's Court actions and \$3,000 for District Court actions by way of security for the respondent's costs of the appeal in the Registry or with the Accountant-General and obtain a certificate in Form 114B.

- (2) The High Court may at any time, in any case where it thinks fit, order further security for costs to be given.

Record of proceedings (O. 55C, r. 4).

4.—(1) When a notice of appeal has been filed, the Judge who gave the judgment or made the order must, unless the judgment was written, certify in writing the grounds of such judgment or order:

Provided that if no certified ground of such judgment or order has been given by the Judge within a period of 3 months from the date of the notice of appeal, the appellant shall nonetheless proceed with the appeal and apply in writing to the registrar for a copy of the record of the proceedings as hereafter provided.

(2) As soon as possible after a notice of appeal has been filed, the registrar shall cause to be served on the appellant or his solicitor at his address for service specified in the notice of appeal a notice that a copy of the record of proceedings is available and can be had on payment of the prescribed fee.

(3) The record of the proceedings shall consist of a certified copy of the judgment or grounds of judgment or order (if any), and a certified copy of the notes of evidence taken at the hearing of the cause or matter.

Petition of appeal (O. 55C, r. 5).

5.—(1) Within one month after service of the notice referred to in Rule 4 (2), the appellant must, if he desires to proceed with the appeal, file in the Registry a petition of appeal in duplicate in Form 114C and a copy of the petition must be served on every respondent to the appeal or his solicitor.

(2) Every petition of appeal must be signed by the appellant or his solicitor and shall contain concisely and under distinct heads, without argument or narrative, particulars of the matters of law or of fact in regard to which the Court is alleged to have erred, such particulars to be numbered consecutively, and, except with the leave of the High Court, the appellant shall not be permitted on the hearing of the appeal, to rely on any ground of appeal other than those set out in the petition.

(3) If a petition of appeal is not filed within the time prescribed by paragraph (1), the appeal shall be deemed to have been withdrawn, but nothing in this Rule shall be deemed to limit or restrict the powers of extending time conferred upon the High Court.

Respondent's notice (O. 55C, r. 6).

6.—(1) A respondent who, not having appealed from the decision of the Court, desires to contend on the appeal that the decision of that Court should be varied, either in any event or in the event of the appeal being allowed in whole or in part, must give notice to that effect, specifying the grounds of that contention.

(2) A respondent who desires to contend on the appeal that the decision of the Court should be affirmed on grounds other than those relied upon by that Court must give notice to that effect specifying the grounds of that contention.

(3) Except with the leave of the High Court, a respondent shall not be entitled on the hearing of the appeal to contend that the decision of the Court should be varied upon grounds not specified in a notice given under this Rule, to apply for any relief not so specified, or to support the decision of the Court upon any grounds not relied upon by that Court or specified in such a notice.

(4) Any notice given by a respondent under this Rule (referred to in this Order as a respondent's notice) must be in Form 114D and must be filed in the Registry, and a copy thereof served on the appellant, and on all parties to the proceedings who are directly affected by the contentions of the respondent within 14 days after the service on him of the petition of appeal.

Record of appeal (O. 55C, r. 7).

7.—(1) Within one month after the filing of the petition of appeal referred to in Rule 5 (1), the appellant must file in the Registry 3 copies of the record of appeal, and serve a copy of it on every respondent to the appeal or his solicitor.

(2) The record of appeal shall consist of a copy each of the notice of appeal, petition of appeal, certificate of payment of security for costs, respondent's notice (if any), the record of proceedings referred to in Rule 4 (3), the documents in the nature of pleadings and other documents, so far as is necessary for showing the matter decided and the nature of the appeal, and the judgment or order appealed from.

(3) A draft index of the documents to be included in the record of appeal shall be sent by the appellant's solicitor to the solicitors for the respondents who or (if more than one) any of whom may within 3 days object to the inclusion or exclusion of any document. In the event of the parties being unable to agree, the matter shall be referred to the registrar who may require the parties to attend before a Judge. The registrar as well as the parties shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the appeal taking special care to avoid the duplication of documents and unnecessary repetition of headings, and other merely formal parts of documents. Where in the course of preparation of the record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists on its being included, the record, as finally printed or typed shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

(4) Where an appellant omits to comply with paragraph (1), any respondent who has filed a respondent's notice may proceed with his appeal, and in any such case the respondent shall, as soon as practicable or within such time as may be allowed by the registrar, file a record of appeal.

(5) Where any respondent has not filed a respondent's notice and an appellant omits to comply with paragraph (1), the appeal shall be deemed to have been withdrawn, but nothing in this Rule shall be deemed to limit or restrict the powers of extending time conferred upon the High Court.

(6) The registrar must on receiving copies of the record of appeal transmit two copies, together with the exhibits put in evidence at the hearing, to the Registrar of the Supreme Court and give notice to the parties to the appeal in Form 114E.

Stay of execution pending appeal (O. 55C, r. 8).

8. The filing of a notice of appeal shall not operate as a stay of execution, but the Court may on application by summons stay execution on such terms as it thinks just.

Judgment or order on appeal to be sent to registrar (O. 55C, r. 9).

9. Whenever an appeal is decided by the High Court, the Registrar of the Supreme Court must send to the registrar a certified copy of the judgment or order.

Enforcement of judgments which have been the subject-matter of an appeal (O. 55C, r. 10).

10. The taking of any steps for the execution or enforcement of a judgment or order which has been the subject-matter of an appeal must be in the Subordinate Courts.

Interpretation (O. 55C, r. 11).

11. In this Order, "Court" means "the Subordinate Courts" and "Registrar" means "Registrar of the Subordinate Courts".

ORDER 56

APPEALS FROM REGISTRAR AND JUDGE IN PROCEEDINGS
IN SUPREME COURT

Appeals from decisions of Registrar to Judge in Chambers (O. 56, r. 1).

1.—(1) An appeal shall lie to a Judge in Chambers from any judgment, order or decision of the Registrar.

(2) The appeal shall be brought by serving on every other party to the proceedings in which the judgment, order or decision was given or made a notice in Form 114F to attend before the Judge on a day specified in the notice.

(3) Unless the Court otherwise orders, the notice must be issued within 14 days after the judgment, order or decision appealed against was given or made and served on all other parties within 7 days of it being issued.

(4) Except so far as the Court may otherwise direct, an appeal under this Rule shall not operate as a stay of the proceedings in which the appeal is brought.

Further arguments on interlocutory orders (O. 56, r. 2).

2.—(1) A party dissatisfied with any interlocutory order made by a High Court Judge in Chambers may, within 7 days of the making of such order, apply to the Judge for further arguments in Court in accordance with practice directions for the time being issued by the Registrar.

(2) Unless the Registrar informs the party making the application within 14 days of the receipt of the application that the Judge requires further arguments, the Judge shall be deemed to have certified that he requires no further arguments.

(3) Upon hearing further arguments, the Judge may affirm, vary or set aside the interlocutory order previously made or may make such other order as he thinks fit. Any such hearing, if in Chambers, shall be deemed to be a hearing in Court for the purposes of section 34 (1) (c) of the Supreme Court of Judicature Act (Chapter 322).

Leave to appeal against order or judgment of Judge (O. 56, r. 3).

3.—(1) A party applying for leave under section 34 of the Supreme Court of Judicature Act to appeal against an order made, or a judgment given, by a Judge must file his application —

(a) to the Judge within 7 days of the order or judgment; and

(b) in the event leave is refused by the Judge, to the Court of Appeal within 7 days of the refusal.

(2) A party who has obtained leave to appeal under this Rule shall file and serve the notice of appeal within one month from the date on which such leave was given.

Application (O. 56, r. 4).

4. This Order shall only apply to proceedings in the Supreme Court.

ORDER 57**APPEALS TO THE COURT OF APPEAL****Application of Order to appeals (O. 57, r. 1).**

1. This Order applies to every appeal to the Court of Appeal (including so far as it is applicable thereto, any appeal to that Court from any tribunal from which an appeal lies to that Court under any written law) not being an appeal for which other provision is made by these Rules.

Application of Order to applications for new trial (O. 57, r. 2).

2. This Order (except so much of Rule 3 (1) as provides that an appeal shall be by way of rehearing and except Rule 14 (1)) applies to an application to the Court of Appeal for a new trial or to set aside a finding or judgment after trial, as it applies to an appeal to that Court, and references in this Order to an appeal and to an appellant shall be construed accordingly.

Notice of appeal (O. 57, r. 3).

3.—(1) An appeal to the Court of Appeal shall be by way of rehearing and must be brought by notice of appeal in Form 115.

(2) Notice of appeal may be given either in respect of the whole or in respect of any specified part of the judgment or order of the Court below; and every such notice must state whether the whole or part only, and what part, of the judgment or order is complained of, contain an address for service, and be signed by the appellant or his solicitor.

For the avoidance of doubt, any party who desires to contend that the decision of the Court below should be varied in any event must file and serve a notice of appeal.

(3) The appellant must at the time of filing the notice of appeal deposit a sum of \$5,000 or such other sum as may be fixed from time to time by the Chief Justice by way of security for the respondent's costs of the appeal in the Registry or with the Accountant-General and obtain a certificate in Form 113B.

(4) The Court of Appeal may at any time, in any case where it thinks fit, order further security for costs to be given.

(5) The Registrar must assign a number to the notice of appeal and enter the appeal on the list of appeals, stating therein the title of the cause or matter, the name of the appellant and his solicitor, if any, and the date of such entry.

(6) The notice of appeal must be served on all parties to the proceedings in the Court below who are directly affected by the appeal or their solicitors respectively at the time of filing the notice of appeal; and, subject to Rule 10, it shall not be necessary to serve the notice on parties not so affected.

Time for appealing (O. 57, r. 4).

4. Subject to this Rule, every notice of appeal must be filed and served under Rule 3 (6) within one month —

- (a) in the case of an appeal from an order in Chambers, from the date when the order was pronounced or when the appellant first had notice thereof;
- (b) in the case of an appeal against the refusal of an application, from the date of the refusal; and
- (c) in all other cases, from the date on which the judgment or order appealed against was pronounced.

Record of proceedings (O. 57, r. 5).

5.—(1) When a notice of appeal has been filed, the Judge who gave the judgment or made the order must, unless the judgment was written, certify in writing the grounds of the judgment or order:

Provided that if no certified ground of the judgment or order has been given by the Judge within a period of 6 months from the date of the notice of appeal, the appellant shall nonetheless proceed with the appeal and apply in writing to the Registrar for a copy of the record of proceedings as hereafter provided.

(2) As soon as possible after notice of appeal has been filed the Registrar shall cause to be served on the appellant or his solicitor at his address for service specified in the notice of appeal a notice that a copy of the record of proceedings is available and thereupon the appellant or his solicitor shall pay the prescribed fee.

(3) The record of proceedings shall consist of a certified copy of the judgment or grounds of judgment or order (if any), and a certified copy of the notes of evidence including the affidavits of the evidence in chief taken at the hearing of the cause or matter.

[Rules 6, 7, 8 deleted by GN S 194/94]

Record of Appeal and Appellant's Case (O. 57, r. 9).

9.—(1) Within 3 months after service of the notice referred to in Rule 5 (2), the appellant must file 4 copies each of —

- (a) the record of appeal; and

-
- (b) subject to Rule 9A, the Appellant's Case referred to in that Rule,

and serve a copy each thereof on every respondent to the appeal or his solicitor.

- (2) The record of appeal shall consist of a copy each of —

- (a) the notice of appeal;
- (b) the certificate of payment of security for costs;
- (c) the record of proceedings referred to in Rule 5 (3);
- (d) the documents in the nature of pleadings and other documents, so far as is necessary for showing the matter decided and the nature of the appeal; and
- (e) the judgment or order appealed from.

(3) A draft index of the documents to be included in the record of appeal shall be sent by the appellant's solicitor to the solicitors for the respondents who or (if more than one) any of whom may within 3 days object to the inclusion or exclusion of any document. In the event of the parties being unable to agree, the matter shall be referred to the Registrar who may require the parties to attend before a Judge of Appeal. The Registrar as well as the parties shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the appeal taking special care to avoid the duplication of documents and unnecessary repetition of headings, and other merely formal parts of documents. Where in the course of preparation of the record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists on its being included, the record, as finally printed or typed shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

(4) Where an appellant omits to comply with paragraph (1), the appeal shall be deemed to have been withdrawn, but nothing in this Rule shall be deemed to limit or restrict the powers of extending time conferred upon the Court of Appeal.

(5) In the event of a cross-appeal, a joint record of appeal may be filed if all the parties to the appeal and the cross-appeal consent.

(6) Written notice of intention to file such a joint record must be given to the Registrar within the time specified in paragraph (1).

(7) Subject to paragraph (5), any party to the appeal or the cross-appeal may apply to the Registrar for directions as to the filing of the record of appeal.

Preparation of Cases (O. 57, r. 9A)

9A.—(1) The appellant must file his Case (referred to in these Rules as the Appellant's Case) within the time specified in Rule 9.

(2) The respondent must file his Case (referred to in these Rules as the Respondent's Case) —

- (a) within one month after service on him of the record of appeal and the Appellant's Case; or
 - (b) in the event a joint record of appeal is filed, within one month after service on him of the Appellant's Case.
- (3) The form of the Case shall comply with the following requirements;
- (a) it shall consist of paragraphs numbered consecutively;
 - (b) it shall state, as concisely as possible —
 - (i) the circumstances out of which the appeal arises;
 - (ii) the issues arising in the appeal;
 - (iii) the contentions to be urged by the party filing it and the authorities in support thereof; and
 - (iv) the reasons for or against the appeal, as the case may be;
 - (c) it shall be in the same size and style as the record of appeal with alphabetical lettering in the left hand margin at every fifth line, the first letter "A" being placed against the first line in each page, and with references in the right hand margin to the relevant pages of the record of appeal; and
 - (d) care shall be taken to avoid, as far as possible, the recital of long extracts from the record of appeal.
- (4) If a party —
- (a) is abandoning any point taken in the Court below; or
 - (b) intends to apply in the course of the hearing for leave to introduce a new point not taken in the Court below,

this should be stated clearly in the Case, and if the new point referred to in sub-paragraph (b) involves the introduction of fresh evidence, this should also be stated clearly in the Case and an application for leave must be made under Rule 16 to adduce the fresh evidence.

(5) A respondent who, not having appealed from the decision of the Court below, desires to contend on the appeal that the decision of that Court should be varied in the event of an appeal being allowed in whole or in part, or that the decision of that Court should be affirmed on grounds other than those relied upon by that Court, must state so in his Case, specifying the grounds of that contention.

(6) Except with the leave of the Court of Appeal, a respondent shall not be entitled on the hearing of the appeal —

- (a) to contend that the decision of the Court below should be varied upon grounds not specified in his Case;
- (b) to apply for any relief not so specified; or
- (c) to support the decision of the Court below upon any grounds not relied upon by that Court or specified in his Case.

(7) A Case may be amended at any time with the leave of the Court of Appeal.

(8) Except to such extent as may be necessary to the development of the argument, a Case need not set out or summarise the judgment of the Court below, nor set out statutory provisions, nor contain an account of the proceedings below or of the facts of the case.

(9) Every Case must conclude with a numbered summary of the reasons upon which the argument is founded, and must bear the name and signature of the solicitor who has prepared the Case or who will appear before the Court of Appeal.

(10) The solicitor of any party, in drafting a Case, should assume that it will be read in conjunction with the documents included in the record of appeal.

(11) All the appellants may join in one Appellants' Case, and all the respondents may similarly join in one Respondents' Case.

(12) A party whose interest in the appeal is passive (such as a stakeholder, a trustee or an executor) is not required to file a separate Case but should ensure that his position is explained in one of the Cases filed.

(13) The filing of a joint Case on behalf of both appellant and respondent may be permitted in special circumstances.

(14) A party to an appeal who appears in person and who does not wish to file a Case need not do so.

(15) No Case need be filed in any interlocutory matter or application to be heard by the Court of Appeal but Cases must be filed in any appeal arising from any interlocutory order.

(16) A party to an appeal shall file together with his Case a bundle of authorities relied on by the Court below as well as other authorities to be relied on at the hearing of the appeal and serve such bundle of authorities on the other party.

(17) A respondent who fails to file his Case within the time specified in paragraph (2) may be heard only with the leave of the Court of Appeal and on such terms and conditions as the Court of Appeal may impose.

Directions of the Court as to service (O. 57, r. 10).

10.—(1) The Court of Appeal may in any case direct that the record of appeal and the Cases be served on any party to the proceedings in the Court below on whom it has not been served, or on any person not party to those proceedings.

(2) In any case in which the Court of Appeal directs the record of appeal and the Cases to be served on any party or person, the Court may also direct that a Case be filed by such party or person.

(3) The Court of Appeal may in any case where it gives a direction under this Rule —

- (a) postpone or adjourn the hearing of the appeal for such period and on such terms as may be just; and
- (b) give such judgment and make such order on the appeal as might have been given or made if the persons served in pursuance of the direction had originally been parties.

Withdrawal of appeal (O. 57, r. 11).

11.—(1) An appellant may at any time before his appeal is called on for hearing, file and serve on the parties to the appeal a notice to the effect that he does not intend further to prosecute the appeal.

(2) If all parties to the appeal consent to the intended withdrawal of the appeal, the appellant must file the document signifying such consent signed by the parties or by their solicitor, and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the Registrar; in such event any sum lodged in Court as security for the costs of the appeal shall be paid out to the appellant.

(3) If all the parties do not consent to the intended withdrawal of the appeal, the appeal shall remain on the list, and shall come on for the hearing of any issue as to costs or otherwise remaining outstanding between the parties, and for the making of an order as to the disposal of any sum lodged in Court as security for the costs of the appeal.

[Rule 12 deleted by GN S 194/94].

General powers of Court (O. 57, r. 13).

13.—(1) In relation to an appeal the Court of Appeal shall have all the powers and duties as to amendment and otherwise of the High Court.

(2) The Court of Appeal shall have power to receive further evidence on questions of fact, either by oral examination in Court, by affidavit, or by deposition taken before an examiner, but, in the case of an appeal from a judgment after trial or hearing of any cause or matter on the merits, no such

further evidence (other than evidence as to matters which have occurred after the date of trial or hearing) shall be admitted except on special grounds.

(3) The Court of Appeal shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been given or made, and to make such further or other order as the case may require.

(4) The powers of the Court of Appeal under paragraphs (1), (2) and (3) may be exercised notwithstanding that —

(a) no notice of appeal has been given in respect of any particular part of the decision of the Court below or by any particular party to the proceedings in that Court; or

(b) any ground for allowing the appeal or for affirming or varying the decision of that Court is not specified in any of the Cases filed pursuant to Rule 9A or 10,

and the Court of Appeal may make any order, on such terms as the Court thinks just, to ensure the determination on the merits of the real question in controversy between the parties.

(5) The powers of the Court of Appeal in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

Powers of Court as to new trial (O. 57, r. 14).

14.—(1) On the hearing of any appeal the Court of Appeal may, if it thinks fit, make any such order as could be made in pursuance of an application for a new trial or to set aside any finding or judgment of the Court below.

(2) The Court of Appeal shall not be bound to order a new trial on the ground of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court of Appeal some substantial wrong has been thereby occasioned.

(3) A new trial may be ordered on any question without interfering with the finding or decision on any other question; and if it appears to the Court of Appeal that any such wrong as is mentioned in paragraph (2) affects part only of the matter in controversy, or one or some only of the parties, the Court may order a new trial as to that part only, or as to that party or those parties only, and give final judgment as to the remainder.

(4) In any appeal on the ground that damages awarded are excessive or inadequate, the Court of Appeal may, in lieu of ordering a new trial —

(a) substitute for the sum awarded such sum as appears to the Court to be proper; or

- (b) reduce or increase the sum awarded by such amount as appears to the Court to be proper in respect of any distinct head of damages erroneously included in or excluded from the sum so awarded,

but except as aforesaid the Court of Appeal shall not have power to reduce or increase the damages.

(5) A new trial shall not be ordered by reason of the ruling of any Judge that a document is sufficiently stamped or does not require to be stamped.

Stay of execution, etc. (O. 57, r. 15).

15.—(1) Except so far as the Court below or the Court of Appeal may otherwise direct —

- (a) an appeal shall not operate as a stay of execution or of proceedings under the decision of the Court below;
- (b) no intermediate act or proceeding shall be invalidated by an appeal.

(2) On an appeal from the High Court, interest for such time as execution has been delayed by the appeal shall be allowed unless the Court otherwise orders.

Applications to Court of Appeal (O. 57, r. 16).

16.—(1) Every application to the Court of Appeal shall be by motion, and Order 8 shall apply thereto.

(2) Any application to the Court of Appeal for leave to appeal (other than an application made after the expiration of the time for appealing) must, if the appellant is acting in person, be made *ex parte* in the first instance; but unless the application is then dismissed or it appears to that Court that undue hardship would be caused by an adjournment, the Court shall adjourn the application and give directions for the service of the notice thereof on the party or parties affected.

(3) Where an *ex parte* application has been refused by the Court below, an application for a similar purpose may be made to the Court of Appeal *ex parte* within 7 days after the date of the refusal.

(4) Whenever under these Rules an application may be made either to the Court below or to the Court of Appeal, it shall not be made in the first instance to the Court of Appeal, except where there are special circumstances which make it impossible or impracticable to apply to the Court below.

Extension of time (O. 57, r. 17).

17. Without prejudice to the power of the Court of Appeal under Order 3, Rule 5, to extend the time prescribed by any provision of this Order, the period for serving notice of appeal under Rule 4 or for making application *ex parte* under Rule 16 (3) may be extended by the Court below on application made before the expiration of that period.

Appellant or respondent not appearing (O. 57, r. 18).

18.—(1) If on any day fixed for the hearing of an appeal, the appellant does not appear in person or by an advocate, the appeal may be dismissed.

(2) If the appellant appears, and any respondent fails to appear, either in person or by an advocate, the appeal shall proceed in the absence of such respondent, unless the Court for any sufficient reason sees fit to adjourn the hearing thereof.

(3) Where any appeal is dismissed or allowed under paragraph (1) or (2), the party who was absent may apply to the Court of Appeal for the re-hearing of the appeal and where it is proved that there was sufficient reason for the absence of such party the Court of Appeal may order that the appeal be restored for hearing upon such terms as to costs or otherwise as it thinks fit.

(4) [Deleted by GN S 194/94]

Judgment (O. 57, r. 19).

19.—(1) The judgment of the Court of Appeal shall, subject to paragraph (3), be pronounced in open Court, either on the conclusion of the hearing of the appeal or on a subsequent day of which notice shall be given by the Registrar to the parties to the appeal.

(2) The judgment of the Court of Appeal may be pronounced in the absence of any of the Judges of Appeal who composed the Court of Appeal and the judgment of such Judge of Appeal may be read by any Judge present.

(3) Whenever the Court of Appeal has a written judgment or judgments to be delivered, it may deliver the judgment or judgments by directing copies thereof to be handed to the parties or their solicitors upon payment of the appropriate charges therefor.

(4) Where proceedings in the Court of Appeal are heard in camera pursuant to any written law, any judgment pronounced or delivered in such proceedings shall not be available for public inspection:

Provided that the Court of Appeal may, on such terms as it may impose, allow an inspection of such judgment by, or a copy thereof to be furnished to, a person who is not a party to the proceedings.

(5) Subject to paragraph (4), a copy of every judgment of the Court of Appeal shall be available for public inspection upon payment of the prescribed fee and a copy thereof may be handed to any member of the public upon payment of the appropriate charges therefor, and nothing in Order 60, Rule 4 shall apply to this Rule.

Expedited appeals and applications (O. 57, r. 20).

20.—(1) Where an appeal or application is one of urgency, any party may apply to a Judge of Appeal or, if one is not available, to a Judge (including the Judge hearing the proceedings in the Court below), for such directions as may be appropriate with a view to expediting the appeal or application for hearing before the Court of Appeal.

(2) Such an application shall be made by summons supported by affidavit or may, with the leave of the Judge of Appeal or the Judge, as the case may be, be made orally.

(3) Such an application may be made at any stage of the proceedings.

(4) The Judge of Appeal or the Judge, as the case may be, may deal with such an application in such manner as he considers fit in the interests of justice, including —

- (a) making directions without the need to inform or to hear any party; and
- (b) dispensing with compliance with any of these Rules (including this Rule) or any Practice Direction, or directing that such Rule or Practice Direction be modified in its application to the proceedings.

(5) Any party seeking a revocation or variation of any directions made under this Rule, or seeking further directions, may apply in the manner hereinbefore provided.

ORDER 58

**REFERENCES UNDER ARTICLE 100 OF THE
CONSTITUTION FOR ADVISORY OPINION**

Application and definition (O. 58, r. 1).

1.—(1) This Order applies, so far as applicable, to a Reference under Article 100 of the Constitution to a tribunal consisting of not less than 3 Judges of the Supreme Court for an opinion on a question as to the effect of any provision of the Constitution.

(2) In this Order —

“Reference” means a Reference to the Tribunal made by the President under Article 100 of the Constitution;

“Tribunal” means a tribunal of not less than 3 Judges of the Supreme Court constituted under rule 4.

Bringing of Reference (O. 58, r. 2).

2.—(1) A reference to the Tribunal shall be brought by filing it in Form 115A.

(2) The Reference shall be made under the hand of the President of Singapore.

(3) The Registrar shall cause a copy of the Reference to be served on the Attorney-General.

Requirements of Reference (O. 58, r. 3).

3.—(1) The Reference shall state the questions on which the Tribunal’s opinion is required in a form which shall permit so far as may be possible an answer being given in the affirmative or the negative.

(2) Every Reference shall be divided into paragraphs and shall concisely state such facts and shall include such documents as may be necessary to enable the Tribunal to decide the questions referred.

Composition of Tribunal (O. 58, r. 4).

4.—(1) The tribunal shall consist of the Chief Justice and not less than two other Judges of the Supreme Court as the Chief Justice may determine.

(2) If for any reason the Chief Justice is unable to be a member of the Tribunal, the Tribunal shall consist of not less than 3 Judges of the Supreme Court appointed by the Chief Justice.

(3) The Chief Justice shall be the President of the Tribunal and, in his absence for any cause, the presidency may be determined in accordance with the order of precedence prescribed in section 4 of the Supreme Court of Judicature Act.

Notice to interested persons (O. 58, r. 5).

5.—(1) The Tribunal may direct that any person interested or, where there is a class of persons interested, any one or more persons as representatives of that class, shall be notified of the hearing of any Reference and those persons shall be entitled to be heard thereon.

(2) If such person desires to be heard in the Reference, he shall within 7 days of the notification inform the Tribunal in writing of his intention to be heard.

Attorney-General to assist Tribunal (O. 58, r. 6).

6.—(1) The Attorney-General shall assist the Tribunal in the hearing of the Reference.

(2) The Presidency may be represented by such counsel as the Tribunal may, after consulting the President of Singapore, appoint.

Appointment of Counsel by Tribunal (O. 58, r. 7).

7. The Tribunal may, in its discretion, request any counsel to argue the case with respect to any interest that is affected and with respect to which counsel does not appear.

Mode of dealing with Reference (O. 58, r. 8).

8.—(1) Where a Reference has been filed, it shall, subject to the provisions of this Order, be dealt with and regarded as an appeal to the Court of Appeal.

(2) The Reference shall be treated as the record of appeal.

(3) The President of Singapore shall be treated as the appellant and all other parties as respondents.

(4) All steps required to be taken by Order 57 prior to the filing of the record of appeal shall be deemed to have been taken.

Proceedings before Tribunal (O. 58, r. 9).

9. Subject to the provisions of this Order, the procedure on a Reference shall follow, as far as is applicable, the procedure in proceedings before the Court of Appeal except that the Tribunal shall not be bound by the strict rules of evidence.

Proceedings in open court (O. 58, r. 10).

10. The proceedings of the Tribunal except for the hearing for directions, shall be held in open court.

Notice of directions (O. 58, r. 11).

11. The Registrar shall serve a notice on the President of Singapore, the Attorney-General and any affected persons to attend a hearing for directions to be given by the Tribunal.

Directions (O. 58, r. 12).

12. The directions referred to in rule 11 may, without prejudice to the generality of the Tribunal's powers to give directions, include —

- (a) the dates by which counsel shall file their respective Cases in the manner required by Order 57 with such necessary modifications as the Tribunal may think fit;
- (b) the dates, time and venue for the hearing of the Reference; and
- (c) the manner and time in which final submissions are to be made.

Report (O. 58, r. 13).

13.—(1) The report of the Tribunal shall be in the form of an answer to the questions set out in the Reference.

(2) The Registrar shall deliver the report to the President of Singapore and the Attorney-General.

Costs (O. 58, r. 14).

14. No party to any proceedings to which this Order applies shall be ordered to pay any costs.

Fees (O. 58, r. 15).

15. No fees shall be payable in respect of any proceedings to which this Order applies.

ORDER 58A**SPECIAL CONSTITUTIONAL CASE****Reference by Subordinate Court (O. 58A, r. 1).**

1.—(1) This Order shall, notwithstanding Order 1, Rule 2, apply where in any proceedings including criminal proceedings in a Subordinate Court a question arises as to the interpretation or effect of any provision of the Constitution and the Court has pursuant to section 56A of the Subordinate Courts Act (Chapter 321) stayed the proceedings and the Court has stated the question in the form of a special case.

(2) Every special case stated under section 56A (3) of the Subordinate Courts Act shall be divided into paragraphs and shall concisely state such facts and shall include such documents as may be necessary to enable the High Court to decide the question raised thereby and shall be signed by the District Judge, Magistrate, Coroner or Registrar, as the case may be.

(3) On receipt of the special case, the Registrar of the Supreme Court shall lay the same before a Judge of the High Court and serve a copy thereof on the Attorney-General.

(4) On consideration of the special case transmitted under section 56A (4) of the Subordinate Courts Act, where a Judge considers that the decision on a question as to the effect of any provision of the Constitution is necessary for the determination of such proceedings, the Judge shall deal with the case as if it were a case before him in the original jurisdiction of the High Court in which such a question has arisen.

Mode of dealing with special case (O. 58A, r. 2).

2.—(1) Where a special case has been transmitted to the High Court, it shall subject to the provisions of this Rule be dealt with and regarded in all ways as an application to the High Court.

(2) The special case shall be treated as the record of proceedings.

(3) The plaintiff or the prosecution in the proceedings in the Subordinate Court, as the case may be, shall be treated as the applicant and all other parties as respondents.

(4) The judgment of the High Court shall be in the form of an answer to the question set out in the special case.

(5) The Registrar of the Supreme Court shall serve a notice of the hearing of the special case by the High Court on the Attorney-General and every party to the proceedings in which the special case arose.

Certificate on special case (O. 58A, r. 3).

3. The Registrar of the Supreme Court shall deliver to the Attorney-General, the Registrar of the Subordinate Courts and every party to the proceedings in which the special case arose a copy of the judgment of the High Court.

Proceedings in the Subordinate Court (O. 58A, r. 4).

4.—(1) Where the High Court has given judgment on the special case and the proceedings in the Subordinate Court in which the special case arose are still pending, the Subordinate Court shall continue such proceedings and dispose of the proceedings according to law.

(2) The Subordinate Court shall determine all questions and make all necessary orders regarding costs therein but no order for costs incurred in the High Court shall be made.

ORDER 59**COSTS****PRELIMINARY****Interpretation (O. 59, r. 1).**

1.—(1) In this Order —

“contentious business” and “non-contentious business” have the same meanings, respectively, as in the Legal Profession Act (Chapter 161);

“costs” includes fees, charges, disbursements, expenses and remuneration;

“standard basis” and “indemnity basis” have the same meanings assigned to them by Rule 27 (2) and (3), respectively;

“taxed costs” means costs taxed in accordance with this Order.

(2) In this Order, references to a fund, being a fund out of which costs are to be paid or which is held by a trustee or personal representative, include references to any estate or property, whether movable or immovable, held for the benefit of any person or class of persons; and references to a fund held by a trustee or personal representative include references to any fund to which he is entitled (whether alone or together with any other person) in that capacity, whether the fund is for the time being in his possession or not.

(3) The item mentioned in the first column of the table below, when used in an order for costs, shall have the effect indicated in the second column of that table.

TABLE

<i>Term</i>	<i>Effect</i>
“Costs”	Where this order is made in interlocutory proceedings, the party in whose favour it is made shall be entitled to his costs in respect of those proceedings whatever the outcome of the cause or matter in which the proceedings arise;
“Costs reserved”	The party in whose favour an order for costs is made at the conclusion of the cause or matter in which the proceedings arise shall be entitled to his costs of the proceedings in respect of which this order is made unless the Court orders otherwise;
“Costs in any event”	This order has the same effect as an order for “costs” except that the costs shall be taxed only after the conclusion of the cause or matter in which the proceedings arise;
“Costs here and below”	The party in whose favour this order is made shall be entitled not only to his costs in respect of the proceedings in which it is made but also to his costs of the same proceedings in any lower court, tribunal or other body constituted under any written law or in arbitration proceedings;

<i>Term</i>	<i>Effect</i>
“Costs in the cause” or “costs in application”	The party in whose favour an order for costs is made at the conclusion of the cause or matter in which the proceedings arise shall be entitled to his costs of the proceedings in respect of which such an order is made;
“Plaintiff’s costs in the cause” or “Defendant’s costs in the cause”	The plaintiff or defendant, as the case may be, shall be entitled to his costs of the proceedings in respect of which such an order is made if judgment is given in his favour in the cause or matter in which the proceedings arise, but he shall not be liable to pay the costs of any other party in respect of those proceedings if judgment is given in favour of any other party or parties in the cause or matter in question;
“Costs thrown away”	Where proceedings or any part thereof have been ineffective or have been subsequently set aside, the party in whose favour this order is made shall be entitled to his costs of those proceedings or that part in respect of which it is made.

Application (O. 59, r. 2).

2.—(1) Where by virtue of any written law the costs of or incidental to any proceedings before an arbitrator or umpire or before a tribunal or other body constituted under any written law, not being proceedings in the High Court, are taxable in the High Court, this Order shall have effect in relation to proceedings for taxation of those costs as it has effect in relation to proceedings for taxation of the costs of or arising out of proceedings in the High Court.

(2) Subject to the express provisions of any written law and of these Rules, the costs of and incidental to proceedings in the Supreme Court or the Subordinate Courts, including the administration of estates and trusts, shall be in the discretion of the Court, and the Court shall have full power to determine by whom and to what extent the costs are to be paid.

ENTITLEMENT TO COSTS**When costs to follow the event (O. 59, r. 3).**

3.—(1) Subject to the following provisions of this Order, no party shall be entitled to recover any costs of or incidental to any proceedings from any other party to the proceedings except under an order of the Court.

(2) If the Court in the exercise of its discretion sees fit to make any order as to the costs of or incidental to any proceedings, the Court shall, subject to this Order, order the costs to follow the event, except when it appears to the Court that in the circumstances of the case some other order should be made as to the whole or any part of the costs.

(3) The costs of and occasioned by any amendment made without leave in the writ of summons or any pleadings shall be borne by the party making the amendment, unless the Court otherwise orders.

(4) The costs of and occasioned by any application to extend the time fixed by these Rules, or any direction or order thereunder, for serving or filing any document or doing any other act (including the costs of any order made on the application) shall be borne by the party making the application, unless the Court otherwise orders.

(5) If a party on whom a notice to admit facts is served under Order 27, Rule 2, refuses or neglects to admit the facts within 14 days after the service on him of the notice or such longer time as may be allowed by the Court, the costs of proving the facts shall be paid by him, unless the Court otherwise orders.

(6) If a party —

(a) on whom a list of documents is served in pursuance of any provision of Order 24; or

(b) on whom a notice to admit documents is served under Order 27, Rule 5,

gives notice of non-admission of any of the documents in accordance with Order 27, Rule 4 (2) or 5 (2), as the case may be, the costs of proving that document shall be paid by him, unless the Court otherwise orders.

(7) Where a defendant by notice in writing and without leave discontinues his counterclaim against any party or withdraws any particular claim made by him therein against any party, that party shall, unless the Court otherwise directs, be entitled to his costs of the counterclaim or his costs occasioned by the claim withdrawn, as the case may be, incurred to the time of receipt of the notice of discontinuance or withdrawal.

(8) Where a plaintiff accepts money paid into Court by a defendant who counterclaimed against him, then, if the notice of payment given by that defendant stated that he had taken into account and satisfied the cause of action or, as the case may be, all the causes of action in respect of which he counterclaimed, that defendant shall, unless the Court otherwise directs, be entitled to his costs of the counterclaim incurred to the time of receipt of the notice of acceptance by the plaintiff of the money paid into Court.

(9) Where any person claiming to be a creditor comes in to prove his title, debt or claim in relation to a company in pursuance of any such notice as is mentioned in Order 88, Rule 10, he shall, if his claim succeeds, be entitled to his costs incurred in establishing it, unless the Court otherwise directs, and, if his claim or any part thereof fails, may be ordered to pay the costs of any person incurred in opposing it.

(10) Where a claimant is entitled to costs under paragraph (9), the amount of the costs shall be fixed by the Court unless it thinks fit to direct taxation and the amount fixed or allowed shall be added to the claimant's debt.

Stage of proceedings at which costs to be dealt with (O. 59, r. 4).

4.—(1) Costs may be dealt with by the Court at any stage of the proceedings or after the conclusion of the proceedings; and any costs ordered shall be paid forthwith notwithstanding that the proceedings have not been concluded, unless the Court otherwise orders.

(2) In the case of an appeal the costs of the proceedings giving rise to the appeal, as well as the costs of the appeal and of the proceedings connected with it, may be dealt with by the Court hearing the appeal; and in the case of any proceedings transferred or removed to the High Court from any other court, the costs of the whole proceedings, both before and after the transfer or removal, may be dealt with by the Court to which the proceedings are transferred or removed.

(3) Where under paragraph (2) the Court makes an order as to the costs of any proceedings before another Court, Rules 27, 30 and 31 shall not apply in relation to those costs, but, except in relation to costs of proceedings transferred or removed from a Subordinate Court, the order —

- (a) shall specify the amount of the costs to be allowed;
- (b) shall direct that the costs shall be assessed by the Court before which the proceedings took place; or
- (c) if the order is made on appeal from a Subordinate Court in relation to proceedings in that Court, may direct that the costs shall be taxed by the Registrar of the Supreme Court.

Special matters to be taken into account in exercising discretion (O. 59, r. 5).

5. The Court in exercising its discretion as to costs shall, to such extent, if any, as may be appropriate in the circumstances, take into account any payment of money into Court and the amount of such payment.

Restriction of discretion to order costs (O. 59, r. 6).

6.—(1) Notwithstanding anything in this Order or under any written law unless the Court is of opinion that there was no reasonable ground for opposing the will, no order shall be made for the costs of the other side to be paid by the party opposing a will in a probate action who has given notice with his defence to the party setting up the will that he merely insists upon the will being proved in solemn form of law and only intends to cross-examine the witnesses produced in support of the will.

(2) Where a person is or has been a party to any proceedings in the capacity of trustee, personal representative or mortgagee, he shall, unless the Court otherwise orders, be entitled to the costs of those proceedings, in so far as they are not recovered from or paid by any other person, out of the fund held by the trustee or personal representative or out of the mortgaged property, as the case may be; and the Court may otherwise order only on the ground that the trustee, personal representative or mortgagee has acted unreasonably or, in the case of trustee or personal representative, has in substance acted for his own benefit rather than for the benefit of the fund.

Costs arising from misconduct or neglect (O. 59, r. 7).

7.—(1) Where it appears to the Court in any proceedings that any thing has been done, or that any omission has been made, unreasonably or improperly by or on behalf of any party, the Court may order that the costs of that party in respect of the act or omission, as the case may be, shall not be allowed and that any costs occasioned by it to any other party shall be paid by him to that other party.

(2) Without prejudice to the generality of paragraph (1), the Court shall for the purpose of that paragraph have regard in particular to the following matters:

- (a) the omission to do any thing the doing of which would have been calculated to save costs;
- (b) the doing of any thing calculated to occasion, or in a manner or at a time calculated to occasion unnecessary costs; and
- (c) any unnecessary delay in the proceedings.

(3) The Court may, instead of giving a direction under paragraph (1) in relation to anything done or omission made, direct the Registrar to inquire into it and, if it appears to him that such a direction should have been given in relation to it to act as if the appropriate direction had been given.

(4) The Registrar shall, in relation to anything done or omission made in the court of taxation and in relation to any failure to procure taxation have the same power to disallow or to award costs as the Court has under paragraph (1) to direct that costs shall be disallowed to or paid by any party.

(5) Where a party entitled to costs fails to procure or fails to proceed with taxation, the Registrar in order to prevent any other parties being prejudiced by that failure, may allow the party so entitled a nominal or other sum for costs or may certify the failure and the costs of the other parties.

Costs of taxation proceedings (O. 59, r. 7A).

7A.—(1) Subject to the provisions of any written law and this Order, the party whose bill is being taxed shall be entitled to his costs of the taxation proceedings.

(2) The party liable to pay the costs of the proceedings which gave rise to the taxation proceedings may make a written offer to pay a specific sum in satisfaction of those costs which is expressed to be “without prejudice except as to the costs of taxation” at any time before the expiration of 7 days after the delivery to him of a copy of the bill of costs under Rule 22 and, where such an offer is made, the fact that it has been made shall not be communicated to the Registrar until the question of the costs of the taxation proceedings falls to be decided.

(3) The Registrar may take into account any offer made under paragraph (2) which has been brought to his attention.

Personal liability of solicitor for costs (O. 59, r. 8).

8.—(1) Subject to this Rule, where it appears to the Court that costs have been incurred unreasonably or improperly in any proceedings or have been wasted by failure to conduct proceedings with reasonable competence and expedition, the Court may make against any solicitor whom it considers to be responsible (whether personally or through an employee or agent) an order —

- (a) disallowing the costs as between the solicitor and his client; and
- (b) directing the solicitor to repay to his client costs which the client has been ordered to pay to other parties to the proceedings; or
- (c) directing the solicitor personally to indemnify such other parties against costs payable by them.

(2) No order under this Rule shall be made against a solicitor unless he has been given a reasonable opportunity to appear before the Court and show cause why the order should not be made, except where any proceedings in Court or in Chambers cannot conveniently proceed, and fails or is adjourned without useful progress being made —

- (a) because of the failure of the solicitor to attend in person or by a proper representative; or

- (b) because of the failure of the solicitor to deliver any document for the use of the Court which ought to have been delivered or to be prepared with any proper evidence or account or otherwise to proceed.

(3) Before making an order under this Rule, the Court may, if it thinks fit, refer the matter (except in the case of undue delay in the drawing up of, or in any proceedings under, any order or judgment as to which the Registrar has reported to the Court) to the Registrar for inquiry and report and direct the solicitor in the first place to show cause before him.

(4) The Court may, if it thinks fit, direct or authorise the Attorney-General to attend and take part in any proceedings or inquiry under this Rule, and may make such order as it thinks fit as to the payment of his costs.

(5) The Court may direct that notice of any proceedings or order against a solicitor under this Rule shall be given to his client in such manner as may be specified in the direction.

(6) Where in any proceedings before the Registrar on taxation the solicitor representing any party is guilty of neglect or delay or puts any other party to any unnecessary expense in relation to those proceedings, the Registrar may direct the solicitor to pay costs personally to any of the parties to those proceedings; and where any solicitor fails to leave his bill of costs for taxation within the time fixed by an order of Court or otherwise delays or impedes the taxation, then, unless the Registrar otherwise directs, the solicitor shall not be allowed the fees to which he would otherwise be entitled for drawing his bill of costs and for attending the taxation.

(7) On the taxation of any bill of costs, if one-half or more of the total amount of the bill is taxed off, the Registrar shall have the power to make one or both of the following orders:

- (a) that the solicitor who presented the bill be disallowed the costs for the work done for and in the taxation of costs;
- (b) that the solicitor who presented the bill:
 - (i) stamp the bill with the whole of the amount of fees which would be payable if the bill was allowed by the Registrar at the full amount thereof;
 - (ii) be entitled to be reimbursed by the paying party (in the case of a bill between party and party) or his client (in the case of a bill between the solicitor and his client) only the amount of fees payable on the amount allowed on taxation;
 - (iii) pay personally the difference between the amounts of fees mentioned in sub-paragraphs (b) (i) and (b) (ii) above; and
 - (iv) pay personally the fee payable for the Registrar's Certificate.

(8) Where the Registrar makes one or both of the orders under paragraph (7), he shall make a note to that effect on the bill of costs and the order(s) shall be included in the Registrar's Certificate.

Fractional or gross sum in place of taxed costs (O. 59, r. 9).

9.—(1) Subject to this Order, where under these Rules or any order or direction of the Court costs are to be paid to any person, that person shall be entitled to his taxed costs.

(2) Paragraph (1) shall not apply to costs which under any order or direction of the Court —

(a) are to be paid to a receiver appointed by the High Court under section 4 (8) of the Civil Law Act (Chapter 43) in respect of his remuneration, disbursements or expenses; or

(b) are to be assessed or settled by the Registrar, but Rules 27, 30 and 31 shall apply in relation to the assessment or settlement by the Registrar of costs which are to be assessed or settled as aforesaid.

(3) Where a writ in an action is endorsed in accordance with Order 6, Rule 2 (1) (b), and judgment is entered in default of appearance or of defence for the amount claimed for costs (whether alone or together with any other amount claimed), paragraph (1) shall not apply to those costs; but if the amount claimed for costs as aforesaid is paid in accordance with the endorsement (or is accepted by the plaintiff as if so paid) the defendant shall nevertheless be entitled to have those costs taxed.

(4) The Court in awarding costs to any person may direct that, instead of taxed costs, that person shall be entitled —

(a) to a proportion specified in the direction of the taxed costs or to the taxed costs from or up to a stage of the proceedings so specified; or

(b) to a gross sum so specified in lieu of taxed costs.

When a party may sign judgment for costs without an order (O. 59, r. 10).

10.—(1) Where a plaintiff by notice in writing and without leave either wholly discontinues his action against any defendant or withdraws any particular claim made by him therein against any defendant, the defendant may tax his costs of the action or his costs occasioned by the matter withdrawn, as the case may be, and, if the taxed costs are not paid within 4 days after taxation, may sign judgment for them.

(2) If a plaintiff accepts money paid into Court in satisfaction of the cause of action, or all the causes of action, in respect of which he claims, or if he accepts a sum or sums paid in respect of one or more specified causes of action and gives notice that he abandons the others, then subject to paragraph (4), he may, after 4 days from payment out and unless the Court

otherwise orders, tax his costs incurred to the time of receipt of the notice of payment into Court and 48 hours after taxation may sign judgment for his taxed costs.

(3) Where a plaintiff in an action for libel or slander against several defendants sued jointly accepts money paid into Court by one of the defendants, he may, subject to paragraph (4), tax his costs and sign judgment for them against that defendant in accordance with paragraph (2).

(4) Where money paid into Court in an action is accepted by the plaintiff after the trial or hearing has begun, the plaintiff shall not be entitled to tax his costs under paragraph (2) or (3).

(5) When an appeal is deemed to have been withdrawn under Order 57 —

- (a) the respondent may tax his costs of and incidental to the appeal, and, if the taxed costs are not paid within 4 days after taxation, may sign judgment for them; and
- (b) any sum of money lodged in Court as security for the costs of the appeal shall be paid out to the respondent towards satisfaction of the judgment for taxed costs without an order of the Court and the balance, if any, shall be paid to the appellant.

When order for taxation of costs not required (O. 59, r. 11).

11.—(1) When an action, petition or summons is dismissed with costs, or a motion is refused with costs, or an order of the Court directs the payment of any costs, or any party is entitled under Rule 10 to tax his costs, no order directing the taxation of those costs need be made.

(2) Where a summons is taken out to set aside with costs any proceeding on the ground of irregularity and the summons is dismissed but no direction is given as to costs, the summons is to be taken as having been dismissed with costs.

Powers of Registrar to tax costs (O. 59, r. 12).

12.—(1) The Registrar of the Supreme Court shall have power to tax —

- (a) the costs of or arising out of any cause or matter in the Supreme Court;
- (b) the costs directed by an award made on a reference to arbitration under any written law or pursuant to an arbitration agreement to be paid;
- (c) any other costs the taxation of which is directed by an order of the Court; and
- (d) any costs directed to be taxed or settled under any written law.

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- (2) The Registrar of the Subordinate Courts shall have power to tax —
- (a) the costs of or arising out of any cause or matter in the Subordinate Courts;
 - (b) any other costs the taxation of which is directed by an order of the Court; and
 - (c) any costs directed to be taxed or settled by or under any written law.

Supplementary powers of Registrar (O. 59, r. 13).

13. The Registrar may, in the discharge of his functions with respect to the taxation of costs —

- (a) take an account of any dealings in money made in connection with the payment of the costs being taxed, if the Court so directs;
- (b) require any party represented jointly with any other party in any proceedings before him to be separately represented;
- (c) examine any witness in those proceedings; and
- (d) direct the production of any document which may be relevant in connection with those proceedings.

Extension, etc., of time (O. 59, r. 14).

14.—(1) The Registrar may —

- (a) extend the period within which a party is required under this Order to begin proceedings for taxation or to do anything in or in connection with proceedings before the Registrar; and
- (b) where no period is specified under this Order or by the Court for the doing of anything in or in connection with such proceedings, specify the period within which the thing is to be done.

(2) Where an order of the Court specifies a period within which anything is to be done by or before the Registrar then, unless the Court otherwise directs, the Registrar may from time to time extend the period so specified on such terms (if any) as he thinks just.

(3) The Registrar may extend any such period as is referred to in paragraphs (1) and (2) although the application for extension is not made until after the expiration of that period.

Interim certificates (O. 59, r. 15).

15.—(1) The Registrar may from time to time in the course of the taxation of any costs by him issue an interim certificate for any part of those costs which has been taxed.

(2) If, in the course of the taxation of a solicitor's bill to his own client, it appears to the Registrar that in any event the solicitor will be liable in connection with that bill to pay money to the client, he may from time to time issue an interim certificate specifying an amount which in his opinion is payable by the solicitor to his client.

(3) On the filing of a certificate issued under paragraph (2) the Court may order the amount specified therein to be paid forthwith to the client or into Court.

**Power of Registrar where party liable to be paid and to pay costs
(O. 59, r. 16).**

16. Where a party entitled to be paid costs is also liable to pay costs, the Registrar may —

- (a) tax the costs which that party is liable to pay and set off the amount allowed against the amount he is entitled to be paid and direct payment of any balance; or
- (b) delay the issue of a certificate for the costs he is entitled to be paid until he has paid or tendered the amount he is liable to pay.

Taxation of bill of costs comprised in account (O. 59, r. 17).

17.—(1) Where the Court directs an account to be taken and the account consists in part of a bill of costs, the Court may direct the Registrar to tax those costs and the Registrar shall tax the costs in accordance with the direction and shall return the bill of costs, after taxation thereof, together with his report thereon to the Court.

(2) The Registrar taxing a bill of costs in accordance with a direction under this Rule shall have the same powers, and the same fees shall be payable in connection with the taxation as if an order for taxation of the costs had been made by the Court.

**Registrar to fix certain fees payable to conveyancing counsel, etc.
(O. 59, r. 18).**

18.—(1) Where the Court refers any matter to any solicitor or obtains the assistance of any other person under Order 32, Rule 12, the fees payable to the solicitor or that other person in respect of the work done by him in connection with the reference or, as the case may be, in assisting the Court shall be fixed by the Registrar.

(2) An appeal from the decision of the Registrar under this Rule shall lie to the Court, and the decision of the Court shall be final.

Litigants in person — Compensatory costs (O. 59, r. 18A).

18A. On a taxation of the costs of a litigant in person, there may be allowed such costs as would reasonably compensate the litigant for the time expended by him, together with all expenses reasonably incurred.

Costs for more than one solicitor (O. 59, r. 19).

19.—(1) Costs for getting up the case by and for attendance in Court of more than one solicitor for a party shall not be allowed unless the Court at the hearing or within 7 days thereof so certifies.

(2) Such costs may be allowed notwithstanding that the solicitors are members of the same firm of solicitors.

PROCEDURE ON TAXATION

Mode of beginning proceedings for taxation (O. 59, r. 20).

20. A party entitled to require any costs to be taxed must begin proceedings for the taxation of those costs by lodging two copies of the bill of costs at the Registry.

Notification of time appointed for taxation (O. 59, r. 21).

21. Where proceedings for taxation have been duly begun in accordance with Rule 20, the Registrar shall give to the party beginning the proceedings not less than 14 days' notice of the date and time appointed for taxation.

Delivery of bills, etc. (O. 59, r. 22).

22.—(1) A party whose costs are to be taxed in any taxation proceedings must, within two days after receiving a notice of the date and time under Rule 21, send a copy of his bill of costs to every other party entitled to be heard in the proceedings.

(2) Notice need not be given to any party who has not entered an appearance or taken any part in the proceedings which gave rise to the taxation proceedings:

Provided that this paragraph shall not apply where an order for the taxation of a solicitor's bill of costs made under the Legal Profession Act (Chapter 161), at the instance of the solicitor, gave rise to the taxation proceedings.

23. [Deleted by G.N. No. S 532/91].

Form of bill of costs (O. 59, r. 24).

24.—(1) Every bill of costs must set out in 3 separate sections the following:

- (a) work done in the cause or matter, except for taxation of costs;
- (b) work done for and in the taxation of costs; and
- (c) all disbursements made in the cause or matter.

(2) The costs claimed for paragraph (1) (a) and (b) shall be indicated as one global sum for each section, while the costs claimed for paragraph (1) (c) must set out the sum claimed for each item of disbursement.

(3) Every bill of costs must be headed in the cause or matter to which the bill relates, with the name of the party whose bill it is, and the judgment, direction or order under which the bill is to be taxed, the basis of taxation and whether the bill is to be taxed between party and party or solicitor and client.

(4) A bill of costs must be endorsed with the name or firm and business address of the solicitor whose bill it is.

Provisions as to taxation proceedings (O. 59, r. 25).

25.—(1) If any party entitled to be heard in any taxation proceedings does not attend within a reasonable time after the time appointed for the taxation, the Registrar, if satisfied by affidavit or otherwise that the party had due notice of the date and time appointed, may proceed with the taxation.

(2) The Registrar by whom any taxation proceedings are being conducted may, if he thinks it necessary to do so, adjourn those proceedings from time to time.

Powers of Registrar taxing costs payable out of a fund (O. 59, r. 26).

26.—(1) Where any costs are to be paid out of a fund, the Registrar may give directions as to the parties who are entitled to attend on the taxation of those costs and may disallow the costs of attendance of any party not entitled to attend by virtue of the directions and whose attendance he considers unnecessary.

(2) Where the Court has directed that a solicitor's bill of costs be taxed for the purpose of being paid out of a fund, the Registrar by whom the bill is being taxed may, if he thinks fit, adjourn the taxation for a reasonable period and direct the solicitor to send to any person having an interest in the fund a copy of the bill, or any party thereof, free of charge together with a letter containing the following information:

- (a) that the bill of costs, a copy of which or of part of which is sent with the letter has been referred to the Registrar for taxation;

- (b) that the taxation will take place at the Chambers of the Registrar;
- (c) the date and time appointed by the Registrar at which the taxation will be continued; and
- (d) such other information, if any, as the Registrar may direct.

ASSESSMENT OF COSTS

Basis of taxation (O. 59, r. 27).

27.—(1) Subject to the other provisions of these Rules, the amount of costs which any party shall be entitled to recover is the amount allowed after taxation on the standard basis where —

- (a) an order is made that the costs of one party to proceedings be paid by another party to those proceedings;
- (b) an order is made for the payment of costs out of any fund; or
- (c) no order for costs is required,

unless it appears to the Court to be appropriate to order costs to be taxed on the indemnity basis.

(2) On a taxation of costs on the standard basis, there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the Registrar may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party; and in these Rules, the term “the standard basis”, in relation to the taxation of costs, shall be construed accordingly.

(3) On a taxation on the indemnity basis, all costs shall be allowed except in so far as they are of an unreasonable amount or have been unreasonably incurred and any doubts which the Registrar may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party; and in these Rules, the term “the indemnity basis”, in relation to the taxation of costs, shall be construed accordingly.

(4) Where the Court makes an order for costs without indicating the basis of taxation or an order that costs be taxed on any basis other than the standard basis or the indemnity basis, the costs shall be taxed on the standard basis.

(5) Notwithstanding paragraphs (1) to (4), if any action is brought in the High Court, which would have been within the jurisdiction of a Subordinate Court, the plaintiff shall not be entitled to any more costs than he would have been entitled to if the proceedings had been brought in a Subordinate Court, unless in any such action a Judge certifies that there was sufficient reason for bringing the action in the High Court.

Costs payable to a solicitor by his own client (O. 59, r. 28).

28.—(1) This Rule applies to every taxation of a solicitor's bill of costs to his own client.

(2) On a taxation to which this Rule applies, costs shall be taxed on the indemnity basis but shall be presumed —

- (a) to have been reasonably incurred if they were incurred with the express or implied approval of the client;
- (b) to have been reasonable in amount if their amount was, expressly or impliedly, approved by the client; and
- (c) to have been unreasonably incurred if, in the circumstances of the case, they are of an unusual nature unless the solicitor satisfies the Registrar that prior to their being incurred he informed his client that they might not be allowed on a taxation of costs *inter partes*.

(3) In paragraph (2), references to the client shall be construed —

- (a) if the client was at the material time incapable by reason of unsoundness of mind within the meaning of the Mental Disorders and Treatment Act (Chapter 178) of managing and administering his property and affairs and represented by a person acting as guardian *ad litem* or next friend, as references to that person acting, where necessary, with the authority of the authority having jurisdiction under that Act; and
- (b) if the client was at the material time an infant and represented by a person acting as guardian *ad litem* or next friend, as references to that person.

(4) The delivery of a bill of costs by a solicitor to his client shall not preclude the solicitor from presenting a bill for a larger amount or otherwise for taxation, if taxation is ordered by the Court or is consented to by the solicitor and his client.

(5) Upon a taxation mentioned in paragraph (4), the solicitor shall be entitled to such amount as is allowed by the Registrar, notwithstanding that such amount may be more than that claimed in any previous bill of costs delivered to his client.

Costs payable to solicitor where money recovered by or on behalf of infant, etc. (O. 59, r. 29).

29.—(1) This Rule applies to —

- (a) any proceedings in which money is claimed or recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, a person who is an infant or incapable by reason of unsoundness of mind within the meaning of the Mental Disorders and Treatment Act (Chapter 178) of managing and administering his property and affairs or in which money paid into Court is accepted by or on behalf of such a person;
- (b) any proceedings under the Civil Law Act (Chapter 43) in which money is recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, the widow of the person whose death gave rise to the proceedings in satisfaction of a claim under that Act or in which money paid into Court is accepted by her or on her behalf in satisfaction of such a claim, if the proceedings were for the benefit also of a person who, when the money is recovered, or adjudged or ordered or agreed to be paid, or accepted, is an infant; and
- (c) any proceedings in the Court of Appeal on an application or appeal made in connection with any proceedings to which this Rule applies by virtue of sub-paragraphs (a) and (b).

(2) The costs payable to his solicitor by any plaintiff in any proceedings to which this Rule applies by virtue of paragraph (1) (a) or (b), being the costs of those proceedings or incident to the claim therein or consequent thereon, shall be taxed under Rule 28; and no costs shall be payable to the solicitor of any plaintiff in respect of those proceedings except such amount of costs as may be certified in accordance with this Rule on the taxation under Rule 28 of the solicitor's bill of costs to the plaintiff.

(3) On the taxation under Rule 28 of a solicitor's bill to any plaintiff in any proceedings to which this Rule applies by virtue of paragraph (1) (a) or (b) who is his own client, the Registrar shall also tax any costs payable to that plaintiff in those proceedings and shall certify —

- (a) the amount allowed on the taxation under Rule 28, the amount allowed on the taxation of any costs payable to that plaintiff in those proceedings and the amount (if any) by which the first-mentioned amount exceeds the other; and
- (b) where necessary, the proportion of the amount of the excess payable respectively by, or out of money belonging to, any party to the proceedings who is an infant or incapable, by reason of unsoundness of mind within the meaning of the Mental Disorders and Treatment Act (Chapter 178) of

managing and administering his property and affairs of the widow of the man whose death gave rise to the proceedings and any other party.

(4) Paragraphs (2) and (3) shall apply in relation to any proceedings to which this Rule applies by virtue of paragraph (1) (c) as if for references to a plaintiff there were substituted references to the party, whether appellant or respondent, who was the plaintiff in the proceedings which gave rise to the first-mentioned proceedings.

(5) Nothing in paragraphs (1) to (4) shall prejudice a solicitor's lien for costs.

(6) Paragraphs (1) to (5) shall apply in relation to —

(a) a counterclaim by or on behalf of a person who is an infant or incapable by reason of unsoundness of mind within the meaning of the Mental Disorders and Treatment Act of managing and administering his property and affairs and a counterclaim consisting of or including a claim under the Civil Law Act (Chapter 43) by or on behalf of the widow of the man whose death gave rise to the claim; and

(b) a claim made by or on behalf of a person who is an infant or incapable as aforesaid in an action by any other person for relief under section 137 of the Merchant Shipping Act 1995 (Act 19 of 1995) and a claim consisting of or including a claim under the Civil Law Act made by or on behalf of that widow in such an action,

as if for references to a plaintiff there were substituted references to a defendant.

Costs payable to a trustee out of trust fund, etc. (O. 59, r. 30).

30.—(1) This Rule applies to every taxation of the costs which a person who is or has been a party to any proceedings in the capacity of trustee or personal representative is entitled to be paid out of any fund which he holds in that capacity.

(2) On a taxation to which this Rule applies, costs shall be taxed on the indemnity basis but shall be presumed to have been unreasonably incurred if they were incurred contrary to the duty of the trustee or personal representative as such.

Provisions for ascertaining costs on taxation (O. 59, r. 31).

31.—(1) Subject to Rules 1 to 30, the provisions in Appendix 1 to this Order for ascertaining the amount of costs to be allowed on a taxation of costs shall apply to the taxation of all costs with respect to contentious business.

(2) Notwithstanding paragraph (1), costs shall be allowed in the cases to which Appendix 2 to this Order applies in accordance with the provisions of that Appendix unless the Court otherwise orders.

CERTIFICATE

Certificate (O. 59, r. 32).

32. When the bill of costs has been taxed, the solicitor shall cast up the deductions therefrom, which, with the casting of the bill, shall be checked by the Registrar, and the Registrar shall proceed to make his certificate for the amount of such costs less the deductions.

Certificate of Registrar to be conclusive unless set aside (O. 59, r. 33).

33. Upon the taxation of the bill of costs, the certificate of the Registrar, unless set aside, shall be conclusive as to the amount thereof, and, where the order contains a submission to pay, the solicitor may after 48 hours, if there is no application for review, issue execution in respect thereof.

REVIEW

Application to Registrar for review (O. 59, r. 34).

34.—(1) Any party to any taxation proceedings who is dissatisfied with the allowance or disallowance in whole or in part of any item by the Registrar, or with the amount allowed by the Registrar in respect of any item, may apply to the Registrar to review his decision in respect of that item.

(2) An application under this Rule for review of the Registrar's decision may be made at any time within 14 days after that decision or such other period as may be fixed by the Registrar.

(3) Every applicant for review under this Rule must at the time of making his application deliver to the Registrar objections in writing specifying by a list the items or parts of items the allowance or disallowance of which or the amount allowed in respect of which is objected to and stating concisely the nature and grounds of the objection in each case, and must deliver a copy of the objections to each other party (if any) who attended on the taxation of those items or to whom the Registrar directs that a copy of the objections shall be delivered.

(4) Any party to whom a copy of the objections is delivered under this Rule may, within 14 days after delivery of the copy to him or such other period as may be fixed by the Registrar, deliver to the Registrar answers in writing to the objections stating concisely the grounds on which he will oppose the objections, and must at the same time deliver a copy of the answers to the party applying for review and to each other party (if any) to

whom a copy of the objections has been delivered or to whom the Registrar directs that a copy of the answers shall be delivered.

(5) An application under this Rule for review of the Registrar's decision in respect of any item shall not prejudice the power of the Registrar under Rule 15 to issue an interim certificate in respect of the items his decision as to which is not objected to.

Review by Registrar (O. 59, r. 35).

35.—(1) On reviewing any decision in respect of any item, the Registrar may receive further evidence and may exercise all the powers which he might exercise on an original taxation in respect of that item, including the power to award costs of and incidental to the proceedings before him; and any costs awarded by him to any party may be taxed by him and may be added to or deducted from any other sum payable to or by that party in respect of costs.

(2) On a hearing of a review under Rule 34, a party to whom a copy of the objections was delivered under paragraph (4) of that Rule shall be entitled to be heard, with the leave of the Registrar, in respect of any item to which the objections relate notwithstanding that he did not deliver written answers to the objections under that paragraph.

(3) The Registrar who has reviewed a decision in respect of any item shall issue his certificate accordingly and, if requested to do so by any party to the proceedings before him, shall state in his certificate or otherwise in writing by reference to the objections to that decision the reasons for his decision on the review, and any special facts or circumstances relevant to it.

(4) A request under paragraph (3) must be made within 14 days after the review or such other period as may be fixed by the Registrar.

Review of Registrar's decision by a Judge (O. 59, r. 36).

36.—(1) Any party who is dissatisfied with the decision of the Registrar to allow or to disallow any item in whole or in part on review under Rule 34 or 35, or with the amount allowed in respect of any item by the Registrar on any such review, may apply to a Judge for an order to review the taxation as to that item or part of an item, if, but only if, one of the parties to the proceedings before the Registrar requested the Registrar in accordance with Rule 35 (3) to state the reasons for his decision in respect of that item or part on the review.

(2) An application under this Rule for review of the Registrar's decision in respect of any item may be made at any time within 14 days of the review by the Registrar, or such longer time as the Registrar or the Court at any time may allow.

(3) An application under this Rule shall be made by summons and shall, except where the Judge thinks fit to adjourn into Court, be heard in Chambers.

(4) Unless the Judge otherwise directs, no further evidence shall be received on the hearing of an application under this Rule, and no ground of objection shall be raised which was not raised on the review by the Registrar but, except as aforesaid, on the hearing of any such application the Judge may exercise all such powers and discretion as are vested in the Registrar in relation to the subject-matter of the application.

(5) On an application under this Rule, the Judge may make such order as the circumstances require, and in particular may order the Registrar's certificate to be amended or, except where the dispute as to the item under review is as to amount only, order the item to be remitted to the Registrar for taxation.

(6) In this Rule, "Judge" means a Judge of the High Court or a District Judge in person.

INTEREST

Interest on costs (O. 59, r. 37).

37.—(1) The costs mentioned in the first column below shall carry interest at 6% per annum or such other rate as the Chief Justice may direct from the date mentioned below until payment:

<i>Type of Costs</i>	<i>Commencement Date</i>
(a) Taxed costs	Date of taxation
(b) Costs fixed by the Court	Date of order
(c) Costs agreed between the parties	Date of agreement
(d) Costs under Parts I and II of Appendix 2	Date of judgment

(2) Costs under Part III of Appendix 2 shall not carry any interest.

(O. 59, R.31 (1))

COSTS ON TAXATION**Amount of costs.**

1.—(1) The amount of costs to be allowed shall (subject to any order of the Court) be in the discretion of the Registrar.

(2) In exercising his discretion the Registrar shall have regard to all the relevant circumstances, and in particular to —

- (a) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;
- (b) the skill, specialised knowledge and responsibility required of, and the time and labour expended by, the solicitor;
- (c) the number and importance of the documents (however brief) prepared or perused;
- (d) the place and circumstances in which the business involved is transacted;
- (e) the urgency and importance of the cause or matter to the client; and
- (f) where money or property is involved, its amount or value.

2.—(1) The bill of costs must set out in chronological order, with dates, all the relevant events in the cause or matter.

(2) Where attendances, telephone conversations and correspondence are concerned, it shall be sufficient to state only the number of such attendances, telephone calls and correspondence, and, where possible, the total number of hours of such attendances and telephone calls.

(3) Where costs have already been awarded for any of the events set out, this fact and the amount awarded must be indicated.

(4) The bill must also contain a succinct narrative of the legal and factual issues involved.

(5) The bill may also contain the lists of authorities cited, indicating, where possible, those cited in the judgment of the Court.

(6) Work done in the cause or matter includes work done in connection with the negotiation of a settlement.

(O. 59, R.31 (2))

FIXED COSTS

PART I

COSTS ON JUDGMENT WITHOUT TRIAL.

1.—(1) The scale of costs set out in Part II of this Appendix shall apply in relation to the following cases:

- (a) cases in which the defendant pays the amount claimed within the time and in the manner required by the endorsement of the writ;
- (b) cases in which the plaintiff obtains final judgment in default of appearance or of defence under —
 - (i) Order 13, Rule 1;
 - (ii) Order 13, Rule 1 by virtue of Order 79, Rule 4;
 - (iii) Order 13, Rule 4 or 5;
 - (iv) Order 19, Rule 2;
 - (v) Order 19, Rule 2 by virtue of Order 79, Rule 4; or
 - (vi) Order 19, Rule 5 or 6; and
- (c) cases in which the plaintiff obtains final judgment under Order 14 unconditionally.

(2) Where the plaintiff is also entitled under the judgment to damages to be assessed, or where the plaintiff claims any relief of the nature specified in Order 83, Rule 1, this Part shall not apply.

PART II

BASIC COSTS

Costs to be allowed in cases under the following sub-paragraphs of paragraph 1 (1) of Part I:

	<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>
	\$	\$	\$
(a) under sub-paragraph (a)	1,000	700	400
(b) under sub-paragraph (b)	1,200	1,000	700
(c) under sub-paragraph (c)	2,000	1,500	1,000
	to	to	to
	10,000	5,000	3,000

Appendix 2 — continued

COSTS FOR ADDITIONAL ITEMS

	<i>Costs to be allowed</i>		
	<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>
	\$	\$	\$
2.—(1) Where there is more than one defendant, in respect of each additional defendant served —			
(a) if the additional defendant is represented by the same solicitor as any other defendant	50	50	30
(b) in any other case	100	100	60
(2) Where substituted service is ordered and effected, in respect of each defendant served	150 plus disbursement	150 plus disbursement	120 plus disbursement
(3) Where service out of jurisdiction is ordered and effected	300 plus disbursement	300 plus disbursement	200 plus disbursement
(4) In the case of a judgment in default of defence or judgment under Order 14, where notice of appearance is not given on the day on which appearance is entered, and the plaintiff makes an affidavit of service for the purpose of a judgment in default of appearance (the allowance to include the search fee)	100	100	60
(5) In the case of a judgment under Order 14 where an affidavit of service of the summons is required	100	100	60

*Appendix 2 — continued**Costs to be allowed*

	<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>
	\$	\$	\$
(6) In the case of a judgment in default of appearance or defence on an application by summons under Order 79, Rule 4	100	100	100
And where there is more than one defendant in respect of each additional defendant	50	50	20

PART III

MISCELLANEOUS

3. Where a plaintiff or defendant signs judgment for costs under Rule 10, there shall be allowed —

Costs to be allowed

	<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>
	\$	\$	\$
Costs of judgment	200	200	60

4. Where upon the application of any person who has obtained a judgment or order against a debtor for the recovery or payment of money a garnishee order is made under Order 49, Rule 1, against a garnishee attaching debts owing or accruing from him to the debtor, the following costs shall be allowed:

(a) to the garnishee, to be deducted by him from any debt owing by him as aforesaid before payments to the applicant —

*If no affidavit used.**If affidavit used.*

<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>	<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>
\$	\$	\$	\$	\$	\$
100	100	100	200	200	180

Appendix 2 — continued

- (b) to the applicant, to be retained, unless the Court otherwise orders, out of the money recovered by him under the garnishee order and in priority to the amount of the debt owing to him under the judgment or order —

Costs to be allowed

<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>
\$	\$	\$
200	200	200

- (c) where the garnishee fails to attend the hearing of the application and an affidavit of service is required —

Costs to be allowed

<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>
\$	\$	\$
100	100	40

5. Where leave is given under Order 45, Rule 3, to enforce a judgment or order for the recovery of possession of land by writ of possession, if costs are allowed on the judgment or order there shall be allowed the following costs, which shall be added to the judgment or order:

	<i>High Court</i>	<i>District Court</i>
	\$	\$
(a) Costs	300	300
(b) Where notice of proceedings has been given to more than one person, in respect of each additional person.	50	50

6. Where a writ of execution within the meaning of Order 46, Rule 1, is issued against any party, there shall be allowed —

	<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>
	\$	\$	\$
Costs of issuing execution	300	300	100 where it is a Small Claims action; 150 in any other case.

ORDER 60

THE REGISTRY

Distribution of business (O. 60, r. 1).

1.—(1) The Registry shall be divided into such departments, and the business performed in the Registry shall be distributed among the departments in such manner, as the Chief Justice or the Senior District Judge, as the case may be, may direct.

(2) The Registry shall be under the control and supervision of the Registrar.

Books to be kept in Registry (O. 60, r. 2).

2.—(1) Subject to paragraph (2), the Registrar shall cause to be kept in Forms 119 to 134 the following:

- (a) a cause book;
- (b) an originating summons book;
- (c) an originating motion book;
- (d) an interpleader summons book;
- (e) a summons in chambers book;
- (f) a writs of execution book;
- (g) a distress book;
- (h) a probate book;
- (i) a caveat book;
- (j) a service book;
- (k) an adoption book;
- (l) an Accountant-General's direction book;
- (m) an index of wills;
- (n) registers of appeals, including a register of appeals to the Court of Appeal and a register of appeals from the Subordinate Courts;
- (o) such account books and other books as are prescribed or required to be kept by these Rules and such other book as may from time to time be found necessary.

(2) The Registrar may maintain at his discretion all the information referred to in paragraph (1) in such medium or mode as he may determine.

Date of filing to be marked, etc. (O. 60, r. 3).

3.—(1) Any document filed in the Registry in any proceedings must be sealed with a seal showing the date on which the document was filed and any document not required by these Rules to be sealed must show the date on which it was filed.

(2) Particulars of the time of delivery at the Registry of any document for filing, the date of document and the title of the cause or matter of which the document forms part of the record shall be entered in books kept in the Registry for the purpose.

Right to inspect, etc. certain documents filed in Registry (O. 60, r. 4).

4.—(1) Any person may, with the leave of the Registrar and on payment of the prescribed fee, be entitled during office hours to search for, inspect and take a copy of any of the documents filed in the Registry.

(2) Nothing in paragraph (1) shall be taken as preventing any party to a cause or matter searching for, inspecting and taking or bespeaking a copy of any affidavit or other document filed in the Registry in that cause or matter or filed therein before the commencement of that cause or matter but made with a view to its commencement.

Deposit of document (O. 60, r. 5).

5. Where the Court orders any documents to be lodged in Court, then, unless the order directs that the documents be so lodged by being deposited with the Accountant-General, the documents must be deposited in the Registry.

Filing of instruments creating powers of attorney (O. 60, r. 6).

6.—(1) An instrument creating a power of attorney which is presented for deposit in the Registry of the Supreme Court under —

(a) section 30 of the Trustees Act (Chapter 337); or

(b) section 48 of the Conveyancing and Law of Property Act (Chapter 61),

shall not be deposited therein unless the execution of the instrument has been verified in accordance with Rule 7 and the instrument is accompanied —

(i) except where Rule 7 (b) applies, by the affidavit, declaration, certificate or other evidence by which the execution was verified;

(ii) in the case of an instrument presented for filing under section 30 of the Trustees Act, by the statutory declaration required by subsection (4) of that section.

(2) Without prejudice to the said section 48, a certified copy of an instrument creating a power of attorney which is presented for deposit in the Registry of the Supreme Court under that section shall not be deposited therein unless —

- (a) the execution of the instrument has been verified in accordance with Rule 7;
- (b) the signature of the person who verified the copy is sufficiently verified; and
- (c) except where Rule 7 (b) applies and subject to paragraph (3), the copy is accompanied by the affidavit, declaration, certificate or other evidence by which the execution was verified.

(3) If the affidavit, declaration, certificate or other evidence verifying the execution of the instrument is so bound up with or attached to the instrument that they cannot conveniently be separated, it shall be sufficient for the purpose of paragraph (2) to produce and show to the proper officer in the Registry the original affidavit, declaration, certificate or other evidence and to file a certified or office copy thereof.

Verification of execution of power of attorney (O. 60, r. 7).

7. The execution of such an instrument or statutory declaration as is referred to in Rule 6 (1) may be verified —

- (a) by an affidavit or statutory declaration sworn or made by the attesting witness or some other person in whose presence the instrument was executed, or, if no such person is available, by some impartial person who knows the signature of the donor of the power of attorney created by the instrument;
- (b) if the instrument was attested by a Commissioner for Oaths, by the signature of the Commissioner as attesting witness; or
- (c) by such other evidence as, in the opinion of the Registrar is sufficient.

Inspection, etc. of powers of attorney (O. 60, r. 8).

8.—(1) An index shall be kept in the Registry of the Supreme Court of all instruments and certified copies to which Rule 6 relates deposited in the said Registry and of the names of the donors of the powers of attorney created by such instruments.

(2) Any person shall, on payment of the prescribed fee, be entitled —

- (a) to search the index;
- (b) to inspect any document filed or deposited in the Registry in accordance with Rule 6; and

- (c) to be supplied with an office copy of such document; and a copy of any such document may be presented at the Registry to be marked as an office copy.

Restriction on removal of documents (O. 60, r. 9).

9. No document filed in or in the custody of the Registry shall be taken out of it without the leave of the Court unless the document is to be sent to a Subordinate Court or the Supreme Court, as the case may be.

ORDER 61

SITTINGS, VACATION AND OFFICE HOURS

Vacation Judge (O. 61, r. 1).

1. A Judge of the Supreme Court shall be available during every vacation to act as a vacation Judge.

Hearing in vacation (O. 61, r. 2).

2. All such matters as require to be immediately or promptly heard shall be heard in vacation by the vacation Judge.

Registry: Days on which open and office hours (O. 61, r. 3).

3.—(1) The Registry shall be open on every day of the year except on Sundays or public holidays.

(2) The hours during which the Registry shall be open to the public shall be such as the Chief Justice, or the Senior District Judge with the concurrence of the Chief Justice, as the case may be, may from time to time direct.

ORDER 62

SERVICE OF DOCUMENTS

When personal service required (O. 62, r. 1).

1.—(1) Any document which by virtue of these Rules is required to be served on any person need not be served personally unless the document is one which by an express provision of these Rules or by order of the Court is required to be so served.

(2) Paragraph (1) shall not affect the power of the Court under any provision of these Rules to dispense with the requirement for personal service.

Personal service: Process server (O. 62, r. 2).

2.—(1) Personal service must be effected by a process server of the Supreme Court or by a solicitor or a solicitor's clerk whose name and particulars have been notified to the Registrar for this purpose:

Provided that the Registrar may, in a particular cause or matter, allow personal service to be effected by any other named person and shall, in that case, cause to be marked on the document required to be served personally, a memorandum to that effect.

(2) Whenever the service of a document is attended with expense, a process server shall not, except by order of the Registrar, be bound to serve the document, unless reasonable expenses thereof have been tendered in the Registry by the party requiring the service.

(3) Where service is by a process server, the Registrar shall forthwith give written notice to the plaintiff or person at whose instance the process is issued or to his solicitor, of the fact and manner of such service.

Personal service: How effected (O. 62, r. 3).

3.—(1) Personal service of a document is effected by leaving with the person to be served —

(a) in the case of an originating process, a sealed copy;

(b) in any other case, a copy of the document.

(2) Personal service of a document may also be effected in such other manner as may be agreed between the party serving and the party to be served.

Personal service on body corporate (O. 62, r. 4).

4. Personal service of a document on a body corporate may, in cases for which provision is not otherwise made by any written law, be effected by serving it in accordance with Rule 3 on the chairman or president of the body, or the secretary, treasurer or other similar officer thereof.

Substituted service (O. 62, r. 5).

5.—(1) If, in the case of any document which by virtue of any provision of these Rules is required to be served personally on any person, it appears to the Court that it is impracticable for any reason to serve that document personally on that person, the Court may make an order in Form 135 for substituted service of that document.

(2) An application for an order for substituted service must be made by summons supported by an affidavit in Form 136 stating the facts on which the application is founded.

(3) Substituted service of a document, in relation to which an order is made under this Rule, is effected by taking such steps as the Court may direct to bring the document to the notice of the person to be served.

Ordinary service: How effected (O. 62, r. 6).

6.—(1) Service of any document, not being a document which by virtue of any provision of these Rules is required to be served personally, may be effected —

- (a) by leaving the document at the proper address of the person to be served;
- (b) by post;
- (c) by FAX in accordance with paragraph (3);
- (d) in such other manner as may be agreed between the party serving and the party to be served; or
- (e) in such other manner as the Court may direct.

(2) For the purpose of this Rule, and of section 2 of the Interpretation Act (Chapter 1), in its application to this Rule, the proper address of any person on whom a document is to be served in accordance with this Rule shall be the address for service of that person, but if at the time when service is effected that person has no address for service his proper address for the purpose aforesaid shall be —

- (a) in any case, the business address of the solicitor (if any) who is acting for him in the proceedings in connection with which service of the document in question is to be effected;
- (b) in the case of an individual, his usual or last known address;
- (c) in the case of individuals who are suing or being sued in the name of a firm, the principal or last known place of business of the firm within the jurisdiction; or
- (d) in the case of a body corporate, the registered or principal office of the body.

(3) Service by FAX may be effected where —

- (a) the party serving the document acts by a solicitor;
- (b) the party on whom the document is served acts by a solicitor and service is effected by transmission to the business address of such a solicitor;
- (c) the solicitor acting for the party on whom the document is served has indicated in writing to the solicitor serving the document that he is willing to accept service by FAX at a specified FAX number and the document is transmitted to that number; and for this purpose the inscription of a FAX number on the

writing paper of a solicitor shall be deemed to indicate that such a solicitor is willing to accept service by FAX at that number in accordance with this paragraph unless he states otherwise in writing; and

- (d) within 3 days after the day of service by FAX the solicitor acting for the party serving the document serves a copy of it on the solicitor acting for the other party by any of the other methods of service set out in paragraph (1), and if he fails to do so, the document shall be deemed never to have been served by FAX.

(4) Where the FAX is transmitted on a working day before 4.00 p.m. and on a Saturday before 12 noon, it shall, unless the contrary is shown, be deemed to be served on that day, and, in any other case, on the working day next following. In this paragraph, "working day" means any day other than Sunday or a public holiday.

(5) Nothing in this Rule shall be taken as prohibiting the personal service of any document or as affecting any written law which provides for the manner in which documents may be served on bodies corporate.

Service on Minister, etc., in proceedings which are not by or against the Government (O. 62, r. 7).

7. Where for the purpose of or in connection with any proceedings, not being civil proceedings by or against the Government within the meaning of Part III of the Government Proceedings Act (Chapter 121), any document is required by any written law or these Rules to be served on the Minister of a Government department which is an authorised department for the purposes of that Act, or on such a department or on the Attorney-General, section 20 of the said Act and Order 73, Rule 3, shall apply in relation to the service of the document as they apply in relation to the service of documents required to be served on the Government for the purpose of or in connection with any civil proceedings by or against the Government.

Effect of service after certain hours (O. 62, r. 8).

8. Any document (other than a writ of summons or other originating process) service of which is effected under Rule 3 or under Rule 6 (1) (a) after 12 noon on a Saturday or after 4 p.m. on any other weekday, shall, for the purpose of that document, be deemed to have been served on the Monday following that Saturday or on the day following that other weekday, as the case may be.

Affidavit of service (O. 62, r. 9).

9. An affidavit of service of any document must state by whom the document was served, the day of the week and date on which it was served, where it was served and how, and must be in one of the forms in Form 137.

No service required in certain cases (O. 62, r. 10).

10. Where by virtue of these Rules any document is required to be served on any person but is not required to be served personally, and at the time when service is to be effected that person is in default as to entry of appearance or has no address for service, the document need not be served on that person unless the Court otherwise directs or any of these Rules otherwise provides.

Dispensation of service (O. 62, r. 11).

11. The Court may, in an appropriate case, dispense with service of any document on any person.

ORDER 63**PAPER, PRINTING, NOTICES AND COPIES****Quality and size of paper (O. 63, r. 1).**

1. Unless the nature of the document renders it impracticable, every document prepared by a party for use in the Court must be on paper of durable quality, approximately 297 millimetres long, by 210 millimetres wide, having a margin not less than 25.4 millimetres wide to be left blank on either side of the paper.

Regulations as to printing, etc. (O. 63, r. 2).

2.—(1) Except where these Rules otherwise provide, every document prepared by a party for use in the Court must be produced by one of the following means, that is to say, printing and typewriting otherwise than by means of a carbon, and may be produced partly by one of those means and partly by the other.

(2) For the purpose of these Rules a document shall be deemed to be printed if it is produced by type lithography or stencil duplicating.

(3) Any type used in producing a document for use as aforesaid must be such as to give a clear and legible impression and must be not smaller than 11 point type for printing or elite type for type lithography, stencil duplicating or typewriting.

(4) Any document produced by a photographic or similar process giving a positive and permanent representation free from blemishes shall, to the extent that it contains a facsimile of any printed or typewritten matter, be treated for the purposes of these Rules as if it were printed or typewritten, as the case may be.

(5) Any notice required by these Rules may not be given orally except with the leave of the Court.

Copies of documents for other party (O. 63, r. 3).

3.—(1) Where a document is prepared by a party for use in Court, the party by whom it was prepared must, on receiving a written request from any other party entitled to a copy of that document, not being a party on whom it has been served, supply him with a copy, and on payment of the proper charges, supply him with such number of further copies thereof, not exceeding 10, as may be specified in the request and, where the document in question is an affidavit, of any document exhibited to it.

(2) The copy must be ready for delivery within 48 hours after a written request for it, together with an undertaking to pay the proper charges, is received and must be supplied thereafter on payment of those charges.

Requirements as to copies (O. 63, r. 4).

4.—(1) Before a copy of a document is supplied to a party under these Rules, it must be endorsed with the name and address of the party or solicitor by whom it was supplied.

(2) The party by whom a copy is supplied under Rule 3, or, if he sues or appears by a solicitor, his solicitor, shall be answerable for the copy being a true copy of the original or of an office copy, as the case may be.

ORDER 64**CHANGE OF SOLICITOR****Notice of change of solicitor (O. 64, r. 1).**

1.—(1) A party to any cause or matter who sues or defends by a solicitor may change his solicitor without an order for that purpose but, until notice of the change is filed and served in accordance with this Rule, the former solicitor shall, subject to Rules 4 and 5, be considered the solicitor of the party until the final conclusion of the cause or matter, whether in the Court or the Court of Appeal.

(2) Notice of a change of solicitor in Form 138 must be filed in the Registry.

(3) The party giving the notice must serve on every other party to the cause or matter (not being a party in default as to entry of appearance) and on the former solicitor a copy of the notice.

(4) The party giving the notice may perform the duties prescribed by this Rule in person or by his new solicitor.

Notice of appointment of solicitor (O. 64, r. 2).

2. Where a party, after having sued or defended in person, appoints a solicitor to act in the cause or matter on his behalf, the change may be made without an order for that purpose and Rule 1 (2), (3) and (4) shall,

with the necessary modifications, apply in relation to a notice of appointment of a solicitor in Form 138 as they apply in relation to a notice of change of solicitor.

Notice of intention to act in person (O. 64, r. 3).

3. Where a party, after having sued or defended by a solicitor, intends and is entitled to act in person, the change may be made without an order for that purpose and Rule 1 shall, with the necessary modifications, apply in relation to a notice of intention to act in person as it applies in relation to a notice of change of solicitor except that the notice of intention to act in person in Form 139 must contain an address for service of the party giving it.

Removal of solicitor from record at instance of another party (O. 64, r. 4).

4.—(1) Where —

- (a) a solicitor who has acted for a party in a cause or matter has died or become bankrupt or cannot be found or has failed to take out a practising certificate or has been struck off the roll of solicitors or has been suspended from practising or has for any other reason ceased to practise; and
- (b) the party has not given notice of change of solicitor or notice of intention to act in person in accordance with Rules 1 to 3,

any other party to the cause or matter may apply to the Court or, if an appeal to the High Court or the Court of Appeal is pending in the cause or matter, to such Court, for an order declaring that the solicitor has ceased to be the solicitor acting for the first-mentioned party in the cause or matter, and the Court or the Court of Appeal, as the case may be, may make an order accordingly.

(2) An application for an order under this Rule must be made by summons in Form 140 or, in the case of an application to the Court of Appeal, by motion, and the summons or notice of motion must, unless the Court or Court of Appeal, as the case may be, otherwise directs, be served on the party to whose solicitor the application relates. The application must be supported by an affidavit stating the grounds of the application.

(3) Where an order in Form 141 is made under this Rule the party on whose application it was made must serve on every other party to the cause or matter (not being a party in default as to entry of appearance) a copy of the order.

(4) An order made under this Rule shall not affect the right of the solicitor and the party for whom he acted as between themselves.

Withdrawal of solicitor who has ceased to act for party (O. 64, r. 5).

5.—(1) Where a solicitor who has acted for a party in a cause or matter has ceased so to act and the party has not given notice of change in accordance with Rule 1, or notice of intention to act in person in accordance with Rule 3, the solicitor may apply to the Court or the Court of Appeal, as the case may be, for an order declaring that the solicitor has ceased to be the solicitor acting for the party in the cause or matter, and the Court or the Court of Appeal, as the case may be, may make an order accordingly, but until the solicitor serves on every party to the cause or matter (not being a party in default as to entry of appearance) a copy of the order, he shall, subject to Rules 1 to 4, be considered the solicitor of the party till the final conclusion of the cause or matter, whether in the Court or Court of Appeal.

(2) An application for an order under this Rule must be made by summons in Form 142 or, in the case of an application to the Court of Appeal, by motion, and the summons or notice of motion must, unless the Court or Court of Appeal, as the case may be, otherwise directs, be served on the party for whom the solicitor acted.

The application must be supported by an affidavit stating the grounds of the application.

(3) An order in Form 143 made under this Rule shall not affect the rights of the solicitor and the party for whom he acted as between themselves.

(4) Notwithstanding anything in paragraph (1), where the legal aid certificate of an assisted person within the meaning of the Legal Aid and Advice Act is revoked or discharged, the solicitor who acted for the assisted person shall cease to be the solicitor acting in the cause or matter; and if the assisted person whose certificate has been revoked or discharged desires to proceed with the cause or matter without legal aid and appoints that solicitor or another solicitor to act on his behalf, Rule 2 shall apply as if that party had previously sued or defended in person.

Address for service of party whose solicitor is removed, etc. (O. 64, r. 6).

6. Where —

- (a) an order is made under Rule 4;
- (b) an order is made under Rule 5, and the applicant for that order has complied with Rule 5 (1); or
- (c) the legal aid certificate of an assisted person within the meaning of the Legal Aid and Advice Act 1995 (Act 20 of 1995) is revoked or discharged, then until the party to whose solicitor or to whom, as the case may be, the order or certificate relates either appoints another solicitor and complies with Rule 2 or, being entitled to act in person, gives notice of his intention to do so and complies with Rule 3, his last known address or,

where the party is a body corporate, its registered or principal office shall, for the purpose of the service on him of any document not required to be served personally, be deemed to be his address for service.

Warrant to act (O. 64, r. 7).

7.—(1) Every solicitor representing any party in any cause or matter shall obtain from such party or his duly authorised agent a warrant to act for such party, either generally or in the said cause or matter.

(2) The absence of such warrant shall, if the solicitor's authority to act is disputed, be prima facie evidence that he has not been authorised to represent such party.

ORDER 65

SERVICE OF FOREIGN PROCESS

Definition (O. 65, r. 1).

1. In this Order, "process" includes a citation.

Service of foreign legal process (O. 65, r. 2).

2.—(1) This Rule applies in relation to the service of any process required in connection with civil proceedings pending before a court or other tribunal of a foreign country where a letter of request from such a tribunal requesting service on a person in Singapore of any such process sent with the letter is received by the Minister and is sent by him to the Supreme Court with an intimation that it is desirable that effect should be given to the request.

(2) In order that service of the process may be effected in accordance with this Rule, the letter of request must be accompanied by a translation thereof in English, two copies of the process to be served and two copies of the translation of the process in English.

(3) Subject to paragraph (4) and to any written law which provides for the manner in which documents may be served on a body corporate, service of the process shall be effected by leaving a copy of it and of the translation with the person to be served.

Service shall be effected by the process server.

(4) Where an application in that behalf is made by the Attorney-General, the Court may make an order for substituted service of the process, and, where such an order is made, service of the process shall be effected by taking such steps as the Court may direct to bring the process to the notice of the person to be served.

(5) After service of the process has been effected or (if such be the case) attempts to effect service of it have failed, the process server shall file a copy of the process, an affidavit made by the person who served, or attempted to serve, the process stating when, where and how he did or attempted to do so, a copy of that affidavit and a statement of the costs incurred in effecting, or attempting to effect, service.

(6) The Registrar shall give a certificate in Form 144 —

- (a) identifying the documents annexed thereto, that is to say, the letter of request for service, a copy of the process received with the letter and a copy of the affidavit referred to in paragraph (5);
- (b) certifying that the method of service of the process and the proof of service are such as are required by the Rules of Court regulating the service of process of that Court in Singapore or, if such be the case, that service of the process could not be effected for the reason specified in the certificate; and
- (c) certifying that the cost of effecting, or attempting to effect, service is the amount so specified.

(7) The certificate given under paragraph (6) shall be sealed with the seal of the Supreme Court for use out of the jurisdiction and shall be sent to the Permanent Secretary to the Minister.

Service of foreign legal process under Civil Procedure Convention (O. 65, r. 3).

3.—(1) This Rule applies in relation to the service of any process required in connection with civil proceedings pending before a court or other tribunal of a foreign country, being a country with which there subsists a Civil Procedure Convention providing for service in Singapore of process of the tribunals of that country, where a letter of request from a consular or other authority of that country requesting service on a person in Singapore of any such process sent with the letter is received by the Registrar.

(2) In order that service of the process may be effected in accordance with this Rule the letter of request must be accompanied by a copy of a translation of the process to be served in English.

(3) Subject to any written law which provides for the manner in which documents may be served on bodies corporate and to any special provisions of the relevant Civil Procedure Convention, service of the process shall be effected by leaving the original process or a copy of it, as indicated in the letter of request, and a copy of the translation with the person to be served. Service shall be effected by the process server.

(4) After service of the process has been effected or (if such be the case) attempts to effect service of it have failed, the process server shall file an affidavit made by the person who served, or attempted to serve, the process stating when, where and how he did or attempted to do so, and a statement of the costs incurred in effecting, or attempting to effect, service.

(5) The Registrar shall give a certificate certifying —

- (a) that the process or a copy thereof, as the case may be, was served on the person, at the time, and in the manner, specified in the certificate or, if such be the case, that service of the process could not be effected for the reason so specified; and
- (b) that the cost of effecting, or attempting to effect, service is the amount so specified.

(6) The certificate given under paragraph (5) shall be sealed with the seal of the Supreme Court for use out of jurisdiction and shall be sent to the consular or other authority by whom the request for service was made.

Costs of service, etc., to be certified by Registrar (O. 65, r. 4).

4. A statement of the costs incurred in effecting, or attempting to effect, service under Rule 2 or 3 shall be submitted to the Registrar who shall certify the amount properly payable in respect of those costs.

ORDER 66

OBTAINING EVIDENCE FOR FOREIGN COURTS, ETC

Jurisdiction of Registrar to make order (O. 66, r. 1).

1.—(1) Subject to paragraph (2), the power of the High Court or a Judge thereof to make, in relation to a matter pending before a court or tribunal in a place outside the jurisdiction, orders for the examination of witnesses and for attendance and for production of documents and to give directions may be exercised by the Registrar.

(2) The Registrar may not make such an order if the matter in question is a criminal matter.

Application for order (O. 66, r. 2).

2.—(1) Subject to paragraph (3) and Rule 3, an application for an order under Rule 1 must be made *ex parte* by a person duly authorised to make the application on behalf of the court or tribunal in question and must be supported by affidavit.

(2) There must be exhibited to the affidavit in support the letter of request, certificate or other document evidencing the desire of the court or tribunal to obtain for the purpose of a matter pending before it the evidence of the witness to whom the application relates or the production

of any documents and, if that document is not in the English language, a translation thereof in that language.

(3) After an application for such an order as is mentioned in paragraph (1) has been made in relation to a matter pending before a court or tribunal, an application for a further order or directions in relation to the same matter must be made by summons.

Application by Attorney-General in certain cases (O. 66, r. 3).

3. Where a letter of request, certificate or other document requesting that the evidence of a witness within the jurisdiction in relation to a matter pending before a court or tribunal in a foreign country be obtained —

- (a) is received by the Minister and sent by him to the Registrar with an intimation that effect should be given to the request without requiring an application for that purpose to be made by the agent in Singapore of any party to the matter pending before the court or tribunal; or
- (b) is received by the Registrar in pursuance of a Civil Procedure Convention providing for the taking of the evidence of any person in Singapore for the assistance of a court or tribunal in the foreign country, and no person is named in the document as the person who will make the necessary application on behalf of such party,

the Registrar shall send the document to the Attorney-General and the Attorney-General may make an application for an order and take such other steps as may be necessary to give effect to the request.

Person to take and manner of taking examination (O. 66, r. 4).

4.—(1) Any order made in pursuance of this Order for the examination of a witness may order the examination to be taken before any fit and proper person nominated by the person applying for the order or before the Registrar or before such other qualified person as to the Court seems fit.

(2) Subject to any special directions contained in any order made in pursuance of this Order for the examination of any witness, the examination shall be taken in the manner provided by Order 39, Rules 5 to 10 and 11 (1) to (3), and an order may be made under Order 39, Rule 14, for payment of the fees and expenses due to the examiner, and those Rules shall apply accordingly with any necessary modifications.

Dealing with deposition (O. 66, r. 5).

5. Unless any order made in pursuance of this Order for the examination of any witness otherwise directs, the examiner before whom the examination was taken must send the deposition of that witness to the Registrar and the Registrar shall —

- (a) give a certificate sealed with the seal of the Supreme Court for use out of the jurisdiction identifying the documents annexed thereto, that is to say, the letter of request, certificate, or other document from the court or tribunal out of the jurisdiction requesting the examination, the order of the Court for examination and the deposition taken in pursuance of the order; and
- (b) send the certificate with the documents annexed thereto to the Permanent Secretary to the Minister, or, where the letter of request, certificate or other document was sent to the Registrar by some other person in accordance with a Civil Procedure Convention to that other person, for transmission to that court or tribunal.

ORDER 67**RECIPROCAL ENFORCEMENT OF JUDGMENTS****Powers under relevant acts exercisable by Judge or Registrar (O. 67, r. 1).**

1. The powers conferred on the High Court by the Reciprocal Enforcement of Commonwealth Judgments Act (Chapter 264) (referred to in this Order as the first Act) and the Reciprocal Enforcement of Foreign Judgments Act (Chapter 265) (referred to in this Order as the second Act), may be exercised by a Judge in Chambers and the Registrar.

Application for registration (O. 67, r. 2).

2. An application —

- (a) under section 3 of the first Act in respect of a judgment obtained in a superior court of the United Kingdom of Great Britain and Northern Ireland, or other territory to which section 5 of that Act applies; or
- (b) under section 4 of the second Act, in respect of a judgment to which that Act applies,

to have the judgment registered in the High Court must be made by an *ex parte* originating summons.

Evidence in support of application (O. 67, r. 3).

3.—(1) An application for registration must be supported by an affidavit —

- (a) exhibiting the judgment or a verified or certified or otherwise duly authenticated copy thereof, and where the judgment is not in the English language, a translation thereof in that language certified by a notary public or authenticated by affidavit;
- (b) stating the name, trade or business and the usual or last known place of abode or business of the judgment creditor and the judgment debtor respectively, so far as known to the deponent;
- (c) stating to the best of the information or belief of the deponent —
 - (i) that the judgment creditor is entitled to enforce the judgment;
 - (ii) as the case may require, either that at the date of the application the judgment has not been satisfied, or the amount in respect of which it remains unsatisfied;
 - (iii) where the application is made under the first Act, that the judgment does not fall within any of the cases in which a judgment may not be ordered to be registered under section 3 (2) of that Act;
 - (iv) where the application is made under the second Act, that at the date of the application the judgment can be enforced by execution in the country of the original court and that, if it were registered, the registration would not be, or be liable to be, set aside under section 5 of that Act;
- (d) specifying, where the application is made under the second Act, the amount of the interest, if any, which under the law of the country of the original court has become due under the judgment up to the time of registration.

(2) [Deleted by G.N. S 278/93 w.e.f. 1.7.93.]

(3) Where a judgment sought to be registered under the second Act is in respect of different matters, and some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments, those judgments could properly have been registered, the affidavit must state the provisions in respect of which it is sought to register the judgment.

(4) In the case of an application under the second Act, the affidavit must be accompanied by such other evidence with respect to the enforceability of the judgment by execution in the country of the original court, and of the law of that country under which any interest has become due under

the judgment, as may be required having regard to the provisions of the Order under the Act extending that Act to that country.

Security for costs (O. 67, r. 4).

4. Except as otherwise provided by any notification made under section 5 of the first Act or any relevant Order under the second Act, the Court may order the judgment creditor to give security for the costs of the application for registration and of any proceedings which may be brought to set aside the registration.

Order for registration (O. 67, r. 5).

5.—(1) An order in Form 145 giving leave to register a judgment must be drawn up by, or on behalf of, the judgment creditor and served on the judgment debtor.

(2) Every such order shall state the period within which an application may be made to set aside the registration and shall contain a notification that execution on the judgment will not issue until after the expiration of that period.

(3) The Court may, on an application made at any time while it remains competent for any party to apply to have the registration set aside, extend the period (either as originally fixed or as subsequently extended) within which an application to have the registration set aside may be made.

Register of judgments (O. 67, r. 6).

6.—(1) There shall be kept in the Registry a register of the judgments ordered to be registered under the first and the second Acts.

(2) There shall be included in such register particulars of any execution issued on a judgment ordered to be so registered.

Notice of registration (O. 67, r. 7).

7.—(1) Notice of the registration of a judgment must be served on the judgment debtor and, subject to paragraph (2), must be served personally unless the Court otherwise orders.

(2) Service of such a notice out of the jurisdiction is permissible without leave, and Order 11, Rules 3, 4 and 6, shall apply in relation to such a notice as they apply in relation to a writ.

(3) The notice of registration must state —

(a) full particulars of the judgment registered and the order for registration;

(b) the name and address of the judgment creditor or of his solicitor on whom, and at which, any summons issued by the judgment debtor may be served;

- (c) the right of the judgment debtor to apply to have the registration set aside; and
- (d) the period within which an application to set aside the registration may be made.

Endorsement of service (O. 67, r. 8).

8.—(1) Within 3 days after service of the notice of registration or within such longer period as the Court may, in special circumstances, allow, the notice or a copy thereof must be endorsed by the person who served it with the day of the week and date on which it was served; and, if the notice is not so endorsed within the period aforesaid the judgment creditor may not issue execution on the judgment to which the notice relates without the leave of the Court.

(2) Every affidavit of service of any such notice must state the date on which the notice was endorsed under this Rule.

Application to set aside registration (O. 67, r. 9).

9.—(1) An application to set aside the registration of a judgment must be made by summons supported by an affidavit.

(2) The Court hearing such application may order any issue between the judgment creditor and the judgment debtor to be tried in any manner in which an issue in an action may be ordered to be tried.

(3) Where the Court hearing an application to set aside the registration of a judgment registered under the first Act is satisfied that the judgment falls within any of the cases in which a judgment may not be ordered to be registered under section 3 (2) of that Act or that it is not just or convenient that the judgment should be enforced in Singapore or that there is some other sufficient reason for setting aside the registration, it may order the registration of the judgment to be set aside on such terms as it thinks fit.

Issue of execution (O. 67, r. 10).

10.—(1) Execution shall not issue on a judgment registered under the first Act or second Act until after the expiration of the period which, in accordance with Rule 5 (2), is specified in the order for registration as the period within which an application may be made to set aside the registration or, if that period has been extended by the Court, until after the expiration of that period as so extended.

(2) If an application is made to set aside the registration of a judgment, execution on the judgment shall not issue until after such application is finally determined.

(3) Any party wishing to issue execution on a judgment registered under the first Act or second Act must produce to the Sheriff an affidavit of service of the notice of registration of the judgment and any order made by the Court in relation to the judgment.

Determination of certain questions (O. 67, r. 11).

11. If, in any case under the second Act, any question arises whether a foreign judgment can be enforced by execution in the country of the original court, or what interest is payable under a foreign judgment under the law of the original court, that question shall be determined in accordance with the provisions in that behalf contained in the Order extending that Act to that country.

Rules to have effect subject to orders of the President (O. 67, r. 12).

12. Rules 1 to 11 shall, in relation to any judgment registered or sought to be registered under the second Act, have effect subject to any such provisions contained in the Order extending that Act to the country of the original court as are declared by the Order to be necessary for giving effect to the agreement made between the Government and that country in relation to matters with respect to which there is power to make those Rules.

Certified copy of High Court judgment (O. 67, r. 13).

13.—(1) An application under section 4 of the first Act or section 13 of the second Act for a certified copy of a judgment entered in the High Court must be made *ex parte* by summons to the Registrar supported by an affidavit.

(2) The affidavit in support of the application under section 4 of the first Act must give particulars of the judgment, show that the judgment debtor is resident in the territory to which that Act extends and state the name, trade or business and the usual or last known place of abode of the judgment creditor and the judgment debtor respectively, so far as known to the deponent.

(3) The affidavit in support of the application under section 13 of the second Act must —

- (a) give particulars of the proceedings in which the judgment was obtained;
- (b) have annexed to it a copy of the writ or originating summons by which the proceedings were begun, the evidence of service thereof on, or appearance by, the defendant, copies of the pleadings, if any, and a statement of the grounds on which the judgment was based;
- (c) state whether the defendant did or did not object to the jurisdiction, and, if so, on what grounds;

- (d) show that the judgment is not subject to any stay of execution;
- (e) state that the time for appealing has expired or, as the case may be, the date on which it will expire and in either case whether notice of appeal against the judgment has been entered; and
- (f) state the rate at which the judgment carries interest.

(4) The certified copy of the judgment shall be an office copy sealed with the seal of the Supreme Court and endorsed with a certificate in Form 146 signed by the Registrar certifying that the copy is a true copy of a judgment obtained in the High Court in Singapore and that it is issued in accordance with section 4 of the first Act or section 13 of the second Act, as the case may be.

(5) Where the application is made under section 13 of the second Act, there shall also be issued a certificate in Form 147 (signed by the Registrar and sealed with the seal of the Supreme Court) having annexed to it a copy of the writ or originating summons by which the proceedings were begun, and stating —

- (a) the manner in which the writ or such summons was served on the defendant or that the defendant appeared thereto;
- (b) what objections, if any, were made to the jurisdiction;
- (c) what pleadings, if any, were served;
- (d) the grounds on which the judgment was based;
- (e) that the time for appealing has expired or, as the case may be, the date on which it will expire;
- (f) whether notice of appeal against the judgment has been entered; and
- (g) such other particulars as it may be necessary to give to the court in the foreign country in which it is sought to obtain execution of the judgment,

and a certificate (signed and sealed as aforesaid) stating the rate at which the judgment carries interest.

ORDER 68

ADOPTION OF CHILDREN

Application and interpretation (O. 68, r. 1).

1.—(1) These Rules apply to proceedings under the Adoption of Children Act (Chapter 4) subject to the following Rules of this Order.

(2) In this Order —

“Act” means the Adoption of Children Act;

“infant” means the child proposed for adoption;

“petitioner” means the person or persons applying for an adoption order.

Petition form (O. 68, r. 2).

2. An application for an adoption order must be made by petition in Form 148 and the proposed adopter must be the petitioner and the infant must be the respondent.

Verification of petitions (O. 68, r. 3).

3. The petition must be verified by affidavit of the petitioner and there shall be exhibited thereto all certificates, consents and other documents proper for proving the allegations therein.

Service (O. 68, r. 4).

4. The petition must be served personally on —

- (a) the parent of the infant;
- (b) the guardian of the infant;
- (c) the person having the actual custody of the infant; or
- (d) the person liable to contribute to the support of the infant,

but the Court may in its discretion dispense with service on any of these persons or order the petition to be served on any other person.

Guardian *ad litem* (O. 68, r. 5).

5.—(1) As soon as practicable after the filing of the petition the Registrar must appoint a day for the hearing of the petition for the appointment of a guardian *ad litem* to the infant and thereupon the petition must be served on the guardian *ad litem*.

(2) The Court may appoint the Attorney-General, upon his consent, and upon the petitioner undertaking to pay his costs, as such guardian *ad litem*, but the Court may for special reasons appoint any other fit and proper person as such guardian *ad litem*.

Consent (O. 68, r. 6).

6.—(1) Every consent required under section 4 of the Act must be attested by a solicitor, a Commissioner for Oaths, a notary public or any person for the time being authorised by law in the place where the document is executed to administer oaths and must be in Form 149.

(2) An application for dispensation of consent must be in Form 150 and must be served on the person whose consent is to be dispensed with, unless the Court otherwise orders.

- (3) An order for dispensation of consent must be in Form 151.

Affidavit by guardian *ad litem* (O. 68, r. 7).

7.—(1) The guardian *ad litem* must file an affidavit before the further hearing of the petition setting out the result of any investigation made as to the circumstances of the infant and the petitioner, and all other matters relevant to the proposed adoption with a view to safeguarding the interest of the infant, and as to the following questions in particular so far as he has been able to ascertain:

- (a) whether the statements in the petition are true;
- (b) whether any payment or other reward in consideration of the adoption has been received or agreed upon, and whether it is consistent with the welfare of the infant;
- (c) whether the means and status of the petitioner are such as to enable him to maintain and bring up the infant suitably, and what right or interest in property the infant has; and
- (d) whether it is desirable for the welfare of the infant that the Court should be asked to make an interim order or to impose in making an adoption order any particular terms and conditions or to require the petitioner to make any particular provision for the infant.

(2) Where the Attorney-General or other public officer is the guardian *ad litem* of the infant, the affidavit may be sworn by any officer of the Department of Social Welfare or other public officer appointed by him to conduct the required investigation.

Notice of further hearing (O. 68, r. 8).

8.—(1) When the guardian *ad litem* has filed the affidavit under Rule 7, the Registrar must appoint a day for the further hearing of the petition, and shall give notice thereof in Form 152 to all parties.

(2) The notice must be served 7 days before the day appointed for the hearing thereof.

Documents confidential (O. 68, r. 9).

9. All documents filed in the proceedings shall be confidential and subject to the requirements of the Rules as to service of such documents no inspection thereof shall be given or copy thereof supplied except by the written authority of the Court.

Hearing in Chambers (O. 68, r. 10).

10. Every petition and every application under the Act or this Order shall unless the Court otherwise orders be heard and determined by a Judge in Chambers, and the evidence thereon may be given either orally or by affidavit, as the Court may direct.

Attendance of parties (O. 68, r. 11).

11. The Judge may refuse to make an adoption order or an interim order unless all parties including the infant attend before him, but he shall have power in his discretion to dispense with the attendance of any party including the infant, or to direct that any party attend separately and apart from the others, or that any party including the infant shall be interviewed privately by him.

Where previous application refused (O. 68, r. 12).

12. If it appears that the petitioner has made a previous application under the Act in respect of the same infant and that such application has been refused, the Court shall not make an adoption order or an interim order unless satisfied that there has been a substantial change in the circumstances of the case.

Interim supervision of infant (O. 68, r. 13).

13. An interim order may provide for the supervision of the infant by the guardian *ad litem* or otherwise as the Court may think just.

Costs (O. 68, r. 14).

14. The Court may make such orders as to costs as it thinks just and may direct that all the costs of a petition under the Act shall be borne and paid by the petitioner.

Security of documents (O. 68, r. 15).

15. The Registrar shall keep in a place of special security all petitions, consents and other documents relating to any application or order made under the Act.

Form of interim order and adoption order (O. 68, r. 16).

16. An interim order shall be in Form 153 and an adoption order shall be in Form 154 (a), (b) or (c).

ORDER 69

ARBITRATION PROCEEDINGS

Interpretation (O. 69, r. 1).

1. In this Order, any reference to a section shall unless it is otherwise expressly provided be construed as a reference to a section in the Arbitration Act (Chapter 10).

Matters for a Judge in Court (O. 69, r. 2).

2.—(1) Every application to the Court —

- (a) to remit an award under section 16;
- (b) to remove an arbitrator or umpire under section 17 (1);
- (c) to set aside an award under section 17 (2);
- (d) for leave to appeal under section 28 (2); or
- (e) to determine, under section 29, any question of law arising in the course of a reference,

must be made by originating motion to a single Judge in Court.

(2) Any appeal to the Court under section 28 (2) must be made by originating motion to a single Judge in Court and notice thereof may be included in the application for leave to appeal, where leave is required.

(3) An application for a declaration that an award made by an arbitrator or umpire is not binding on a party to the award on the ground that it was made without jurisdiction may be made by originating motion to a single Judge in Court, but the foregoing provision shall not be taken as affecting the Judge's power to refuse to make such a declaration in proceedings begun by motion.

Matters for Judge in Chambers or Registrar (O. 69, r. 3).

3.—(1) Subject to Rule 2, the jurisdiction of the High Court or a Judge thereof under the Act may be exercised by a Judge in Chambers or the Registrar.

(2) Any application under section 28 (5) (including any application for leave), or under section 32, must be made to a Judge in Chambers.

(3) Any application to which this Rule applies must, where an action is pending, be made by summons in the action, and in any other case by originating summons.

(4) Where an application is made under section 28 (5) (including any application for leave), the summons must be served on the arbitrator or umpire and on any other party to the reference.

Time and special provisions for applications and appeals (O. 69, r. 4).

4.—(1) An application to the Court —

- (a) to remit an award under section 16;
- (b) to set aside an award under section 17 (2) or otherwise; or
- (c) to direct an arbitrator or umpire to state the reasons for an award under section 28 (5),

must be made at any time within 21 days after the award has been made and published to the parties.

(2) In the case of an appeal to the Court under section 28 (2), the notice must be served, and the appeal entered, within 21 days after the award has been made and published to the parties or when the appeal is brought with the consent of the other parties to the arbitration agreement, within 21 days from the day on which the consent is given, or within such extended time as the Court may allow:

Provided that, where reasons material to the appeal are given on a date subsequent to the publication of the award, the period of 21 days shall run from the date on which the reasons are given.

(3) An application under section 29 (1) to determine any question of law arising in the course of a reference must be made and notice thereof served, within 14 days after the arbitrator or umpire has consented to the application being made, or the other parties have so consented.

(4) For the purpose of paragraph (3), the consent must be given in writing.

(5) In every application to which this Rule applies, the notice of originating motion or the originating summons, as the case may be, must state the grounds of the application and, where the application is founded on evidence by affidavit, or is made with the consent of the arbitrator or umpire or of the other parties, a copy of every affidavit intended to be used, or of every consent given in writing, as the case may be, must be served with that notice or summons.

Appeals (O. 69, r. 4A).

4A.—(1) A notice of originating motion by way of appeal must state —

- (a) the award from which the appeal is brought;
- (b) whether the appeal is from the whole or part only of the award and if so, what part of the award;
- (c) the question of law arising out of the award;
- (d) concisely the grounds of the appeal; and
- (e) whether the appeal is brought with the consent of the parties to the arbitration agreement.

(2) A copy of every affidavit intended to be used in the appeal, and of every consent given in writing (where applicable), must be served with the notice.

Service out of jurisdiction of summons, notice, etc. (O. 69, r. 5).

5.—(1) Service out of the jurisdiction —

(a) of an originating summons or notice of an originating motion under the Arbitration Act (Chapter 10); or

(b) of any order made on such a summons or motion as aforesaid, is permissible with the leave of the Court provided that the arbitration to which the summons, motion or order relates is to be, is being, or has been held within the jurisdiction.

(2) An application for the grant of leave under this Rule must be supported by an affidavit stating the ground on which the application is made and showing in what place or country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Rule.

(3) Order 11, Rules 3, 4 and 6, shall apply in relation to any such summons, notice or order as is referred to in paragraph (1) as they apply in relation to a writ.

Registration in High Court of foreign judgments based on awards (O. 69, r. 6).

6. Where an award is made in proceedings on an arbitration in any part of the Commonwealth or other territory to which the Reciprocal Enforcement of Commonwealth Judgments Act (Chapter 264) extends, being a part to which Part I of the Reciprocal Enforcement of Foreign Judgments Act (Chapter 265), shall in relation to that part of the Commonwealth have effect, then, if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, Order 67 shall apply in relation to the award as it applies in relation to a judgment given by that court, subject, however, to the following modifications:

(a) for references to the country of the original court there shall be substituted references to the place where the award was made; and

(b) the affidavit required by Order 67, Rule 3 must state (in addition to the other matters required by that Rule) that to the best of the information or belief of the deponent the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.

Enforcement of arbitration awards (O. 69, r. 7).

7.—(1) An application for leave under section 20 to enforce an award on an arbitration agreement in the same manner as a judgment or order may be made *ex parte* but the Court hearing the application may direct a summons to be issued.

(2) If the Court directs a summons to be issued, the summons must be by originating summons.

(3) An application for leave must be supported by affidavit —

(a) exhibiting the arbitration agreement and the original award or, in either case, a copy thereof;

(b) stating the name and the usual or last known place of abode or business of the applicant (referred to in this Rule as the creditor) and the person against whom it is sought to enforce the award (referred to in this Rule as the debtor) respectively; and

(c) as the case may require, stating either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.

(4) An order giving leave must be drawn up by or on behalf of the creditor and must be served on the debtor by delivering a copy to him personally or by sending a copy to him at his usual or last known place of abode or business or in such other manner as the Court may direct.

(5) Service of the order out of the jurisdiction is permissible without leave, and Order 11, Rules 3, 4 and 6, shall apply in relation to such an order as they apply in relation to a writ.

(6) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the debtor may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the debtor applies within that period to set aside the order, until after the application is finally disposed of.

(7) The copy of that order served on the debtor must state the effect of paragraph (6).

(8) In relation to a body corporate this Rule shall have effect as if for any reference to the place of abode or business of the creditor or the debtor there were substituted a reference to the registered or principal address of the body corporate; so, however, that nothing in this Rule shall affect any enactment which provides for the manner in which a document may be served on a body corporate.

Special referees (O. 69, r. 8).

8.—(1) Subject to this Order, the Court may appoint any person as a special referee under section 21 or 22 of the Act.

(2) A Judge, Registrar or other officer of the Court may not act as a special referee otherwise than with the concurrence of the Chief Justice.

Inquiry and report (O. 69, r. 9).

9.—(1) Where the Court makes an order under Rule 8, the Court may, at any time and from time to time —

- (a) authorise the special referee to inquire into and report upon any facts relevant to the inquiry and report on the matter referred;
- (b) direct the special referee to make a further or supplemental report or inquiry and report; and
- (c) give such instructions as the Court thinks fit relating to the inquiry or report.

Remuneration of special referee (O. 69, r. 10).

10.—(1) Without affecting the powers of the Court as to costs, the Court may —

- (a) determine the amount of the fees to be paid to a special referee;
- (b) direct how, when and by whom the whole or any part of any such fees are to be payable; and
- (c) determine the consequences of failure to comply with a direction under paragraph (b).

(2) Instructions pursuant to paragraph (1) (c) may include provision concerning any experiment or test for the purposes of any inquiry or report of a special referee.

Conduct of proceedings under the reference (O. 69, r. 11).

11.—(1) Where the Court makes an order under Rule 8, the Court may give directions with respect to the conduct of proceedings, under the reference.

(2) Subject to any direction under paragraph (1) —

- (a) the special referee may conduct the proceedings under the reference in such manner as the special referee thinks fit; and
- (b) the special referee, in conducting proceedings under the reference, is not bound by rules of evidence, but may inform himself or herself in relation to any matter in such manner as the special referee thinks fit.

(3) Evidence before the special referee —

(a) may be given orally or in writing; and

(b) shall, if the special referee so requires, be given on oath or affirmation or by affidavit.

(4) A special referee may take the examination of any person.

(5) Each party shall, within a time fixed by the special referee, in any event before the conclusion of evidence on the inquiry, give to the special referee and each other party a brief statement of the findings of fact and law for which the party contends.

(6) The parties shall at all times do all things which the special referee requires to enable a just opinion to be reached and no party shall wilfully do or cause to be done any act to delay or prevent an opinion being reached.

(7) The Court may, at any time and from time to time, on request of the special referee or on application of a party, give directions with respect to any matter arising in proceedings under the reference.

Setting aside or variation of reference (O. 69, r. 12).

12.—(1) The Court may, of its own motion or on request of the special referee or on application of a party set aside or vary any order made under Rule 8.

(2) Nothing in this Rule affects any other power of the Court to set aside or vary an order made under Rule 8.

Report (O. 69, r. 13).

13. The special referee shall, unless the Court otherwise orders, make a report to the Court, in writing, on the matter referred to the special referee annexing the statements given under Rule 11 (5) and stating —

(a) the special referee's opinion on the matter; and

(b) the reasons for the opinion.

ORDER 69A

INTERNATIONAL ARBITRATION ACT

Interpretation (O. 69A, r. 1).

1. In this Order, unless the context or subject-matter otherwise indicates or requires —

“Act” means the International Arbitration Act (Chapter 143A);

“Model Law” means the UNCITRAL Model Law on International Commercial Arbitration set out in the First Schedule to the Act and as modified by the Act.

Matters for a Judge in Court (O. 69A, r. 2).

2.—(1) Every application to the Court —

- (a) to decide on the challenge of an arbitrator under Article 13 (3) of the Model Law;
- (b) to decide on the termination of the mandate of an arbitrator under Article 14 (1) of the Model Law;
- (c) to appeal against the ruling of the arbitral tribunal under Article 16 (3) of the Model Law; or
- (d) to set aside an award under section 24 of the Act or Article 34 (2) of the Model Law,

must be made by originating motion to a single Judge in Court.

(2) Notwithstanding paragraph (1), the Court shall on the application of a party under section 22 of the Act hear the matter otherwise than in open Court.

(3) An application under paragraph (1) (a), (b) or (c) shall be made within 30 days from the date of receipt by the applicant of the arbitral tribunal's decision or ruling.

(4) An application under paragraph (1) (d) shall be made within 3 months from the date of receipt by the applicant of the award or the corrected award.

(5) For the purpose of this Rule, the date of receipt of any decision, ruling, award or corrected award shall be determined in accordance with Article 3 of the Model Law.

Matters for a Judge in Chambers (O. 69A, r. 3).

3.—(1) Every application or request to the Court —

- (a) to hear an application otherwise than in open Court under section 22 of the Act;
- (b) for leave to enforce interlocutory orders or directions of an arbitral tribunal under section 12 (5) of the Act;
- (c) for interlocutory orders or directions under section 12 (6) of the Act;
- (d) for leave to enforce an award under section 18 or 19 of the Act;
or
- (e) for leave to enforce a foreign award under section 29 of the Act,

shall be made to a Judge in Chambers or the Registrar.

(2) Any application to which this Rule applies must, where an action is pending, be made by summons in the action, and in any other case by originating summons.

(3) Where the case is one of urgency such application may be made *ex parte* on such terms as the Court thinks fit.

Service out of jurisdiction of originating process (O. 69A, r. 4).

4.—(1) Service out of the jurisdiction of the notice of an originating motion or the originating summons or of any order made on such motion or summons under this Order is permissible with leave of the Court whether or not the arbitration was held or the award was made within the jurisdiction.

(2) An application for the grant of leave under this Rule must be supported by an affidavit stating the ground on which the application is made and showing in what place or country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Rule.

(3) Order 11, Rules 3, 4 and 6 shall apply in relation to any such summons, notice or order as is referred to in paragraph (1) as they apply in relation to a writ.

Enforcement of interlocutory orders or directions (O. 69A, r. 5).

5.—(1) An application for leave to enforce an order or direction given by an arbitral tribunal must be supported by an affidavit —

- (a) exhibiting a copy of the arbitration agreement and the original order or direction made by the arbitral tribunal sought to be enforced; and
- (b) stating the provisions in the Act or the applicable rules adopted in the arbitration on which the applicant relies.

(2) Where the order sought to be enforced is in the nature of an interim injunction under section 12 (1) (e) or (f) of the Act, leave shall be granted only if the applicant undertakes to abide by any order the Court or the arbitral tribunal may make as to damages.

Enforcement of arbitral awards (O. 69A, r. 6).

6.—(1) An application for leave to enforce an award or a foreign award must be supported by an affidavit —

- (a) exhibiting the arbitration agreement and the duly authenticated original award or, in either case, a duly certified copy thereof and where the award or agreement is in a language other than English, a translation of it in the English language, duly certified in English as a correct translation by a sworn translator or by an official or by a diplomatic or consular agent of the country in which the award was made;

(b) stating the name and the usual or last known place of abode or business of the applicant (referred to in this Rule as the creditor) and the person against whom it is sought to enforce the award (referred to in this Rule as the debtor) respectively; and

(c) as the case may require, stating either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.

(2) An order giving leave must be drawn up by or on behalf of the creditor and must be served on the debtor by delivering a copy to him personally or by sending a copy to him at his usual or last known place of abode or business or in such other manner as the Court may direct.

(3) Service of the order out of the jurisdiction is permissible without leave, and Order 11, Rules 3, 4 and 6, shall apply in relation to such an order as they apply in relation to a writ.

(4) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the debtor may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the debtor applies within that period to set aside the order, until after the application is finally disposed of.

(5) The copy of that order served on the debtor must state the effect of paragraph (4).

(6) In relation to a body corporate, this Rule shall have effect as if for any reference to the place of abode or business of the creditor or the debtor there were substituted a reference to the registered or principal address of the body corporate; so, however, that nothing in this Rule shall affect any enactment which provides for the manner in which a document may be served on a body corporate.

Subpoena (O. 69A, r. 7).

7. Order 38, Rules 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 shall apply in relation to the issue of a subpoena under section 13 of the Act as it applies in relation to proceedings in the Court.

Taking of evidence (O. 69A, r. 8).

8. Order 39 shall apply in relation to the taking of evidence for arbitration proceedings under Article 27 of the Model Law as it applies for the purpose of proceedings in the Court.

ORDER 70

ADMIRALTY PROCEEDINGS

Application and interpretation (O. 70, r. 1).

1.—(1) This Order applies to Admiralty causes and matters, and the other provisions of these Rules apply to those causes and matters subject to the provisions of this Order.

(2) In this Order —

“action *in rem*” means an Admiralty action *in rem*;

“caveat against arrest” means a caveat entered in the caveat book under Rule 5;

“caveat against release and payment” means a caveat entered in the caveat book under Rule 13;

“caveat book” means the book kept in the Registry in which caveats issued under this Order are entered;

“limitation action” means an action by shipowners or other persons under any written law for the limitation of the amount of their liability in connection with a ship or other property;

“sheriff’s account” refers to the account which is maintained pursuant to Order 90, Rule 18 and includes the bank account maintained in the name of the Sheriff of Singapore.

“ship” includes any description of vessel used in navigation.

(3) In this Order, any reference to payment into Court of proceeds of sale of any property sold by the Sheriff means payment of such proceeds into the Sheriff’s account.

Issue of writ and entry of appearance (O. 70, r. 2).

2.—(1) An action *in rem* must be begun by writ; and the writ must be in Form 155.

(2) The writ by which an Admiralty action *in personam* is begun must be in Form 2 and the words “admiralty action *in personam*” must be inserted above the space for the number of the writ.

(3) Order 6, Rule 3, and Order 12 shall apply in relation to such an admiralty action.

(4) For the purpose of service, a writ issued under this Order shall be valid in the first instance for 12 months.

Service out of Singapore (O. 70, r. 3).

3.—(1) This Rule applies to actions commenced by writ containing a claim for damage, loss of life or personal injury arising out of —

(a) a collision between ships;

- (b) the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships; or
- (c) non-compliance on the part of one or more of two or more ships with the collision regulations.

(2) Subject to the provisions of this Rule, service out of Singapore of a writ containing any such claim as is mentioned in paragraph (1) is permissible with the leave of the Court if —

- (a) the defendant has his habitual residence or a place of business within Singapore;
- (b) the cause of action arose within inland waters of Singapore or within the limits of the port of Singapore;
- (c) an action arising out of the same incident or series of incidents in proceeding in the High Court or has been heard and determined in the High Court; or
- (d) the defendant has submitted or agreed to submit to the jurisdiction of the High Court.

(3) This Rule shall not apply to an action *in rem*.

(4) Order 11, Rules 2 to 8, shall apply to service out of Singapore under this Rule.

(5) In this Rule, “collision regulations”, “inland waters of Singapore” and “port of Singapore” have the same meanings as in the High Court (Admiralty Jurisdiction) Act (Chapter 123).

Warrant of arrest (O. 70, r. 4).

4.—(1) In an action *in rem* the plaintiff or defendant, as the case may be, may after the issue of the writ, issue a warrant in Form 156 for the arrest of the property against which the action or any counterclaim in the action is brought.

(2) A party applying for the issue out of the Registry of a warrant to arrest any property shall before the issue of such warrant procure a search to be made in the caveat book for the purpose of ascertaining whether there is a caveat against arrest in force with respect to that property.

(3) A warrant of arrest shall not be issued until the party applying for it has filed a praecipe in Form 157 requesting issue of the warrant together with an affidavit made by him or his agent containing the particulars required by paragraphs (7) and (8) so, however, the Court may, if it thinks fit, allow the warrant to issue notwithstanding that the affidavit does not contain all those particulars.

(4) Except with the leave of the Court a warrant of arrest shall not be issued in an action *in rem* against a foreign ship belonging to a port of a State having a consulate in Singapore, being an action for possession of the ship or for wages, until notice that the action has been begun has been sent to the consul.

(5) Issue of a warrant of arrest takes place upon its being sealed by an officer of the registry.

(6) Every affidavit must state —

- (a) the name, address and occupation of the applicant for the warrant;
- (b) the nature of the claim or counterclaim in respect of which the warrant is required and that it has not been satisfied and, if it arises in connection with a ship the name of that ship; and
- (c) the nature of the property to be arrested and, if the property is a ship, the name of the ship and the port of her registry.

(7) Every affidavit in an action *in rem* brought against a ship by virtue of section 4 (4) of the High Court (Admiralty Jurisdiction) Act (Chapter 123), must state —

- (a) the name of the person who would be liable on the claim in an action *in personam* (“the relevant person”);
- (b) that the relevant person was when the cause of action arose the owner or charterer of, or in possession or in control of, the ship in connection with which the claim arose;
- (c) that at the time of the issue of the writ the relevant person was the beneficial owner of all the shares in the ship in respect of which the warrant is required; and
- (d) in the case of a claim for possession of a ship or for wages, the nationality of the ship in respect of which the warrant is required, and that the notice (if any) required by paragraph (4) has been sent.

Caveat against arrest (O. 70, r. 5).

5.—(1) A person who desires to prevent the arrest of any property must file in the Registry a praecipe, in Form 158, signed by him or his solicitor undertaking —

- (a) to enter an appearance in any action that may be begun against the property described in the praecipe; and
- (b) within 3 days after receiving notice that such an action has been begun, to give bail in the action in a sum not exceeding an amount specified in the praecipe or to pay the amount so specified into Court,

and on the filing of the praecipe a caveat against the issue of a warrant to arrest the property described in the praecipe shall be entered in the caveat book.

(2) The fact that there is a caveat against arrest in force shall not prevent the issue of a warrant to arrest the property to which the caveat relates.

Remedy where property protected by caveat is arrested (without good and sufficient reason) (O. 70, r. 6)

6. Where any property with respect to which a caveat against arrest is in force is arrested in pursuance of a warrant of arrest, the party at whose instance the caveat was entered may apply to the Court by motion for an order under this Rule and, on the hearing of the application, the Court, unless it is satisfied that the party procuring the arrest of the property had a good and sufficient reason for so doing, may by order discharge the warrant and may also order the last-mentioned party to pay to the applicant damages in respect of the loss suffered by the applicant as a result of the arrest.

Service of writ in action *in rem* (O. 70, r. 7).

7.—(1) Subject to paragraph (2), a writ by which an action *in rem* is begun must be served on the property against which the action is brought except —

- (a) where the property is freight, in which case it must be served on the cargo in respect of which the freight is payable or on the ship in which that cargo was carried; or
- (b) where the property has been sold by the Sheriff, in which case the writ may not be served on that property but a sealed copy of it must be filed in the registry and served on the Sheriff and the writ shall be deemed to have been served on the day on which the copy was filed.

(2) A writ need not be served or filed as mentioned in paragraph (1) if the writ is deemed to have been duly served on the defendant by virtue of Order 10, Rule 1 (2) or (3).

(3) Where by virtue of this Rule a writ is required to be served on any property, the plaintiff must leave the writ and a copy thereof at the Registry and file therein a praecipe in Form 159; and where he does so the Sheriff or his officer shall serve the writ on the property described in the praecipe.

The expenses incurred by the Sheriff or his officer in effecting service shall be paid to the Sheriff on demand by him.

(4) Where a writ is served on any property by the Sheriff or his officer, the person effecting service must indorse on the writ the following particulars, that is to say, where it was served, the property on

which it was served, the day of the week and the date on which it was served, the manner in which it was served and the name and the address of the person effecting service, and the indorsement shall be evidence of the facts stated therein.

(5) Where the plaintiff in an action *in rem*, or his solicitor, becomes aware that there is in force a caveat against arrest with respect to the property against which the action is brought, he must serve the writ forthwith on the person at whose instance the caveat was entered.

(6) Where a writ by which an action *in rem* is begun is amended under Order 20, Rule 1, after service thereof, Order 20, Rule 1 (2), shall not apply and, unless the Court otherwise directs on an application made ex parte, the amended writ must be served on any intervener and any defendant who has entered an appearance in the action or, if no defendant has entered an appearance therein, it must be served or filed in accordance with paragraph (1).

Committal of solicitor failing to comply with undertaking (O. 70, r. 8).

8. Where the solicitor of a party to an action *in rem* fails to comply with a written undertaking by him to any other party or his solicitor to enter an appearance in the action, give bail or pay money into Court in lieu of bail, he shall be liable to committal.

Execution, etc., of warrant of arrest (O. 70, r. 9).

9.—(1) A warrant of arrest is valid for 12 months beginning with the date of its issue.

(2) A warrant of arrest may be executed only by the Sheriff or his officer.

(3) A warrant of arrest shall not be executed until an undertaking in writing, satisfactory to the Sheriff, to pay the fees and expenses of the Sheriff, has been lodged in the Sheriff's office.

(4) A warrant of arrest shall not be executed if the party at whose instance it was issued lodges a written request to that effect with the Sheriff.

(5) A warrant of arrest issued against freight may be executed by serving the warrant on the cargo in respect of which the freight is payable or on the ship in which that cargo was carried or on both of them.

(6) Subject to paragraph (5), a warrant of arrest must be served on the property against which it is issued.

(7) Within 7 days after the service of a warrant of arrest, the warrant must be filed by the Sheriff.

Service on ships, etc.: How effected (O. 70, r. 10).

10.—(1) Subject to paragraph (2), service of a warrant of arrest or writ in an action *in rem* against a ship, freight or cargo shall be effected —

- (a) by affixing the warrant or writ for a short time on any mast of the ship or on the outside of any suitable part of the ship's superstructure; and
- (b) on removing the warrant or writ, by leaving a copy of it affixed (in the case of the warrant) in its place or (in the case of the writ) on a sheltered, conspicuous part of the ship.

(2) Service of a warrant of arrest or writ in an action *in rem* against freight or cargo or both shall, if the cargo has been landed or transhipped, be effected —

- (a) by placing the warrant or writ for a short time on the cargo and, on removing the warrant or writ, leaving a copy of it on the cargo; or
- (b) if the cargo is in the custody of a person who will not permit access to it, by leaving a copy of the warrant or writ with that person.

Applications with respect to property under arrest (O. 70, r. 11).

11.—(1) The Sheriff may at any time apply to the Court for directions with respect to property under arrest in an action and may, or, if the Court so directs, shall, give notice of the application to any or all of the persons referred to in paragraph (2).

(2) The Sheriff shall send a copy of any order made on an application under paragraph (1) to all those persons who, in relation to that property, have —

- (a) entered a caveat which is still in force; or
- (b) caused a warrant for the arrest of the property to be executed by the Sheriff; or
- (c) entered an appearance in any action in which the property is under arrest; or
- (d) intervened in any action in which the property is under arrest.

(3) A person other than the Sheriff may make an application under this Rule by summons or motion in the action in which the property is under arrest and the summons or notice of motion together with copies of any affidavits in support must be served upon the Sheriff and all persons referred to in paragraph (2) unless the court otherwise orders on an application made *ex parte*.

(4) The Sheriff shall send a copy of any order made under paragraph (1) to all the parties to every action against the property to which the order relates.

Release of property under arrest (O. 70, r. 12).

12.—(1) Except where property arrested in pursuance of a warrant of arrest is sold under an order of the Court, property which has been so arrested shall only be released under the authority of an instrument of release (referred to in this Rule as a release), in Form 160, issued out of the Registry.

(2) A release shall not be issued with respect to property as to which a caveat against release is in force, unless, either —

(a) at the time of the issue of the release the property is under arrest in one or more other actions, or

(b) the Court so orders.

(3) A release may be issued at the instance of any party to the action in which the warrant of arrest was issued if the Court so orders, or, subject to paragraph (2), if all the other parties to the action, except any defendant who has not entered an appearance, in which the warrant of arrest was issued consent.

(4) Before a release is issued the party entitled to its issue must —

(a) unless paragraph (2) (a) applies, give notice to any party at whose instance a subsisting caveat against release has been entered or his solicitor requiring the caveat to be withdrawn; and

(b) file a praecipe in Form 161 requesting issue of a release.

(5) Before property under arrest is released in compliance with a release issued under this Rule, the party at whose instance it was issued must, in accordance with the directions of the Sheriff, either —

(a) pay the fees of the Sheriff already incurred and lodge in the Sheriff's office an undertaking to pay on demand the other fees and expenses in connection with the arrest of the property and the care and custody of it while under arrest and of its release, or

(b) lodge in the Sheriff's office an undertaking to pay on demand all such fees and expenses, whether incurred or to be incurred.

(6) The Court, on the application of any party who objects to directions given to him by the Sheriff under paragraph (5), may vary or revoke the directions.

Caveat against release and payment (O. 70, r. 13).

13.—(1) A person who desires to prevent the release of any property under arrest in an action *in rem* and the payment out of Court of any money in Court representing the proceeds of sale of that property must file in the Registry a praecipe in Form 162, and on the filing of the praecipe a caveat against the issue of a release with respect to that property and the payment out of Court of that money shall be entered in the caveat book.

(2) Where the release of any property under arrest is delayed by the entry of a caveat under this Rule, any person having an interest in that property may apply to the Court by motion for an order requiring the person who procured the entry of the caveat to pay to the applicant damages in respect of the loss suffered by the applicant by reason of the delay, and the Court, unless it is satisfied that the person procuring the entry of the caveat had a good and sufficient reason for doing so, may make an order accordingly.

Duration of caveats (O. 70, r. 14).

14.—(1) Every caveat entered in the caveat book is valid for 6 months beginning with the date of its entry but the person at whose instance a caveat was entered may withdraw it by filing a praecipe in Form 163.

(2) The period of validity of a caveat may not be extended but this provision shall not be taken as preventing the entry of successive caveats.

Bail (O. 70, r. 15).

15.—(1) Bail on behalf of a party to an action *in rem* must be given by bond in Form 164; and the sureties to the bond must enter into the bond before a Commissioner for Oaths, not being a Commissioner, who, or whose partner, is acting as solicitor or agent for the party on whose behalf the bail is to be given, or before the Registrar.

(2) Subject to paragraph (3), a surety to a bail bond must make an affidavit stating that he is able to pay the sum for which the bond is given.

(3) Where a corporation is a surety to a bail bond given on behalf of a party, no affidavit shall be made under paragraph (2) on behalf of the corporation unless the opposite party requires it, but where such an affidavit is required it must be made by a director, manager, secretary or other similar officer of the corporation.

(4) The party on whose behalf bail is given must serve on the opposite party a notice of bail containing the names and addresses of the persons who have given bail on his behalf and of the Commissioner for Oaths or Registrar before whom the bail bond was entered into; and after the expiration of 24 hours from the service of the notice (or sooner with the consent of the opposite party) he may file the bond and must at the same

time file the affidavits (if any) made under paragraph (2) and an affidavit proving due service of the notice of bail to which a copy of that notice must be exhibited.

Interveners (O. 70, r. 16).

16.—(1) Where property against which an action *in rem* is brought is under arrest or money representing the proceeds of sale of that property is in Court, a person who has an interest in that property or money but who is not a defendant to the action may, with the leave of the Court, intervene in the action.

(2) An application for the grant of leave under this Rule must be made *ex parte* by summons supported by an affidavit showing the interest of the applicant in the property against which the action is brought or in the money in Court.

(3) A person to whom leave is granted to intervene in an action must enter an appearance therein in the Registry within the period specified in the order granting leave; and Order 12, Rules 1 to 4 shall, with the necessary modifications, apply in relation to the entry of appearance by an intervener as if he were a defendant named in the writ.

(4) The Court may order that a person to whom it grants leave to intervene in an action shall, within such period as may be specified in the order, serve on every other party to the action such pleading as may be so specified.

Preliminary acts (O. 70, r. 17).

17.—(1) In an action to enforce a claim for damage, loss of life or personal injury arising out of a collision between ships, the following provisions of this rule shall apply unless the Court otherwise orders.

(2) The plaintiff must within 2 months after service of the writ on any defendant, and the defendant must within 2 months after entering an appearance, file in the appropriate registry a document in two parts (in these rules referred to as a preliminary act) containing a statement of the following:

Part One

- (i) the names of the ships which came into collision and their ports of registry;
- (ii) the length, breadth, gross tonnage, horsepower and draught at the material time of the ship and the nature and tonnage of any cargo carried by the ship;
- (iii) the date and time (including the time zone) of the collision;
- (iv) the place of the collision;
- (v) the direction and force of the wind;
- (vi) the state of the weather;

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- (vii) the state, direction and force of the tidal or other current;
 - (viii) the position, the course steered and speed through the water of the ship when the other ship was first seen or immediately before any measures were taken with reference to her presence, whichever was the earlier;
 - (ix) the lights or shapes (if any) carried by the ship;
 - (x) (a) the distance and bearing of the other ship if and when her echo was first observed by radar;
(b) the distance, bearing and approximate heading of the other ship when first seen;
 - (xi) what light or shape or combination of lights or shapes (if any) of the other ship was first seen;
 - (xii) what other lights or shapes or combinations of lights or shapes (if any) of the other ship were subsequently seen before the collision, and when;
 - (xiii) what alterations (if any) were made to the course and speed of the ship after the earlier of the two times referred to in sub-paragraph (viii) up to the time of the collision, and when, and what measures (if any) other than alterations of course or speed, were taken to avoid the collision, and when;
 - (xiv) the heading of the ship, the parts of each ship which first came into contact and the approximate angle between the two ships at the moment of contact;
 - (xvi) what sound signals (if any) were given, and when; and what sound signals (if any) were heard from the other ship, and when.

Part Two

- (i) a statement that the particulars in Part One are incorporated in Part Two;
- (ii) any other facts and matters upon which the party filing the preliminary act relies;
- (iii) all allegations of negligence or other fault which the party filing the preliminary act makes;
- (iv) the remedy or relief which the party filing the preliminary act claims.

(3) Part Two of the preliminary act shall be deemed to be the pleading of the person filing the preliminary act (in the case of the plaintiff his statement of claim and in the case of the defendant his defence and, where appropriate, his counterclaim) and the provisions of these rules relating to pleadings shall apply to it save insofar as this Rule and Rule 19 provide otherwise.

(4) The Court may order that Part Two of the preliminary act need not be filed by the plaintiff or defendant and give directions for the further conduct of the action.

(5) Every preliminary act shall before filing be sealed by the Registrar and shall be filed in a closed envelope (stamped with an official stamp showing the date of filing) and the envelope shall not be opened except as provided in paragraph (7) or by order of the Court.

(6) A plaintiff must serve notice of filing his preliminary act on every defendant who has entered an appearance within 3 days of the service of the memorandum of appearance or upon filing his preliminary act, whichever is the later. A defendant must, upon filing his preliminary act, serve notice that he has done so on the plaintiff and on every other defendant who has entered an appearance.

(7) Any party may inspect and bespeak a copy of the preliminary act of any other party upon filing in the registry a consent signed by that other party or his solicitor.

(8) Order 18, Rule 20 (close of pleadings) shall not apply; and for the purposes of Order 18, Rule 14 (denial by joinder of issue), Order 20, Rule 3 (amendment of pleadings without leave) and Order 24, Rules 1 and 2 (discovery of documents) the pleadings shall be deemed to be closed —

(a) at the expiration of 7 days after service of the reply or, if there is no reply but only a defence to counterclaim, after service of the defence to counterclaim pursuant to leave given under rule 19; or

(b) if neither a reply nor a defence to counterclaim is served, at the expiration of 7 days after the last preliminary act in the action was served pursuant to paragraph (9) below.

(9) Within 14 days after the last preliminary act in the action is filed each party must serve on every other party a copy of his preliminary act.

(10) At any time after all preliminary acts have been filed any party may apply to the Court for an order that —

(a) one or more parties file in the registry particulars of the damages claimed by them and serve a copy thereof on every other party; and

(b) the damages be assessed prior to or at the trial on liability. The application must be made by summons even if it is made after the issue of a summons for directions.

(11) When an order is made under paragraph (10) the claim or claims concerned shall be treated as referred for assessment and Rules 40 and 41 shall apply unless the Registrar otherwise directs.

Failure to lodge preliminary act: Proceedings against party in default (O. 70, r. 18).

18.—(1) Where in such an action as is referred to in Rule 17 (1) the plaintiff fails to lodge a preliminary act within the prescribed period, any defendant who has lodged such an act may apply to the Court by summons for an order to dismiss the action, and the Court may by order dismiss the action or make such other order on such terms as it thinks just.

(2) Where in such an action, being an action *in personam*, a defendant fails to lodge a preliminary act within the prescribed period, Order 19, Rules 2 and 3 shall apply as if the defendant's failure to lodge the preliminary act within that period were a failure by him to serve a defence on the plaintiff within the period fixed by these Rules for service thereof, and the plaintiff, if he has lodged a preliminary act may, subject to Order 73, Rule 7, accordingly enter judgment against that defendant in accordance with the said Rule 2 or 3, as the circumstances of the case require.

(3) Where in such an action, being an action *in rem*, a defendant fails to lodge a preliminary act within the prescribed period, the plaintiff, if he has lodged such an act, may apply to the Court by motion for judgment against that defendant, and it shall not be necessary for the plaintiff to file or serve a statement of claim or an affidavit before the hearing of the motion.

(4) On the hearing of a motion under paragraph (3) the Court may make such order as it thinks just, and where the defendant does not appear on the hearing and the Court is of opinion that judgment should be given for the plaintiff provided he proves his case, it shall order the plaintiff's preliminary act to be opened and require the plaintiff to satisfy the Court that his claim is well founded.

The plaintiff's evidence may, unless the Court otherwise orders, be given by affidavit without any order or direction in that behalf.

(5) Where the plaintiff in accordance with a requirement under paragraph (4) satisfies the Court that his claim is well founded, the Court may give judgment for the claim with or without a reference to the Registrar and may at the same time order the property against which the action is brought to be appraised and sold and the proceeds to be paid into Court or make such order as it thinks just.

(6) The Court may, on such terms as it thinks just, set aside any judgment entered in pursuance of this Rule.

(7) In this Rule references to the prescribed period shall be construed as references to the period within which by virtue of Rule 17 (2) or of any order of the Court the plaintiff or defendant, as the context of the reference requires, is required to lodge a preliminary act.

Special provisions as to pleadings in collision, etc., actions (O. 70, r. 19).

19.—(1) Notwithstanding anything in Order 18, Rule 3, the plaintiff in any such action as is referred to in Rule 3 (1) may not serve a reply or a defence to counterclaim on the defendant except with the leave of the Court.

(2) Subject to paragraph (3), in any such action Order 18, Rule 13 (3) shall not apply to any allegation of fact made in —

(a) a statement of claim contained in Part Two of a preliminary act,
or

(b) a counterclaim (whether contained in Part Two of a preliminary act or not),

and notwithstanding Order 18, Rule 14 (3) but without prejudice to the other provisions of that rule, there is an implied joinder of issue on the statement of claim or counterclaim.

(3) Paragraph (2) does not apply to a counterclaim if the plaintiff has served a defence to counterclaim pursuant to leave given under paragraph (1).

Judgment by default (O. 70, r. 20).

20.—(1) Where a writ is served under Rule 7 (5) on a party at whose instance a caveat against arrest was issued, then if —

(a) the sum claimed in the action begun by writ does not exceed the amount specified in the undertaking given by that party or his solicitor to procure the entry of the caveat; and

(b) that party or his solicitor does not within 14 days after service of the writ fulfil the undertaking given by him as aforesaid,

the plaintiff may, after filing an affidavit verifying the facts on which the action is based, apply to the Court for judgment by default.

(2) Judgment given under paragraph (1) may be enforced by the arrest of the property against which the action was brought and by committal of the party at whose instance the caveat with respect to that property was entered.

(3) Where a defendant to an action *in rem* fails to enter an appearance within the time limited for appearing, then, on the expiration of 14 days after service of the writ and upon filing an affidavit proving due service of the writ, an affidavit verifying the facts on which the action is based and, if a statement of claim was not endorsed on the writ, a copy of the statement of claim, the plaintiff may apply to the Court for judgment by default.

Where the writ is deemed to have been duly served on the defendant by virtue of Order 10, Rule 1 (2), or was filed or served under Rule 7, an affidavit proving due service of the writ need not be filed under this

paragraph, but the writ endorsed as mentioned in the said Rule 1 (2) or endorsed by the Registrar with a statement that he accepts service of the writ must be lodged with the affidavit verifying the facts on which the action is based.

(4) Where a defendant to an action *in rem* fails to serve a defence on the plaintiff, then, after the expiration of the period fixed by these Rules for service of the defence and upon filing an affidavit stating that no defence was served on him by that defendant during that period, an affidavit verifying the facts on which the action is based and, if a statement of claim was not endorsed on the writ, a copy of the statement of claim, the plaintiff may apply to the Court for judgment by default.

(5) Where a defendant to a counterclaim in an action *in rem* fails to serve a defence to counterclaim on the defendant making the counterclaim, then, subject to paragraph (6), after the expiration of the period fixed by these Rules for service of the defence to counterclaim and upon filing an affidavit stating that no defence to counterclaim was served on him by the first-mentioned defendant during that period, an affidavit verifying the facts on which the counterclaim is based and a copy of the counterclaim, the defendant making the counterclaim may apply to the Court for judgment by default.

(6) No application may be made under paragraph (5) against the plaintiff in any such action as is referred to in Rule 3 (1).

(7) An application to the Court under this Rule must be made by motion and if, on the hearing of the motion, the Court is satisfied that the applicant's claim is well founded it may give judgment for the claim with or without a reference to the Registrar and may at the same time order the property against which the action or, as the case may be, counterclaim is brought to be appraised and sold and the proceeds to be paid into Court or may make such other order as it thinks just.

(8) In default actions *in rem* evidence may, unless the Court otherwise orders, be given by affidavit without any order or direction in that behalf.

(9) The Court may, on such terms as it thinks just, set aside or vary any judgment entered in pursuance of this Rule.

(10) Order 13 and Order 19 (except Rule 1) shall not apply to actions *in rem*.

Order for sale of ship: Determination of priority of claims (O. 70, r. 21).

21.—(1) Where in an action *in rem* against a ship the Court has ordered the ship to be sold, any party who has obtained or obtains judgment against the ship or proceeds of sale of the ship may —

- (a) in a case where the order for sale contains the further order referred to in paragraph (2), after the expiration of the period specified in the order under paragraph (2) (a); or

(b) in any other case, after obtaining judgment,

apply to the Court by motion for an order determining the order of priority of the claims against the proceeds of sale of the ship.

(2) Where in an action *in rem* against a ship the Court orders the ship to be sold, it may further order —

(a) that the order of priority of the claims against the proceeds of sale of the ship shall not be determined until after the expiration of 90 days, or of such other period as the Court may specify, beginning with the day on which the proceeds of sale are paid into Court;

(b) that any party to the action or to any other action *in rem* against the ship or the proceeds of sale thereof may apply to the Court in the action to which he is a party to extend the period specified in the order;

(c) that within 7 days after the date of payment into Court of the proceeds of sale the Sheriff shall send for publication in the *Gazette* and such newspaper or publication, if any, as the Court may direct, a notice complying with paragraph (3).

(3) The notice referred to in paragraph (2) (c) must state —

(a) that the ship (naming her) has been sold by order of the High Court in an action *in rem*, identifying the action;

(b) that the gross proceeds of the sale, specifying the amount thereof, have been paid into Court;

(c) that the order of priority of the claims against the said proceeds will not be determined until after the expiration of the period (specifying it) specified in the order for sale; and

(d) that any person with a claim against the ship or the proceeds of sale thereof, on which he intends to proceed to judgment should do so before the expiration of that period.

(4) The Sheriff must lodge in the Registry a copy of each newspaper or publication in which the notice referred to in paragraph (2) (c) appeared.

(5) The expenses incurred by the Sheriff in complying with an order of the Court under this Rule shall be included in his expenses relating to the sale of the ship.

(6) An application to the Court to extend the period referred to in paragraph (2) (a) must be made by motion, and a copy of the notice of motion, must, at least 3 days before the day fixed for the hearing thereof, be served on each party who has begun an action *in rem* against the ship or the proceeds of sale thereof.

(7) In this Rule, “Court” means the Judge in person.

Appraisalment and sale of property (O. 70, r. 22).

22.—(1) A commission for the appraisalment and sale of any property under an order of the Court shall not be issued until the party applying for it has filed a praecipe in Form 165.

(2) Such a commission must, unless the Court otherwise orders, be executed by the Sheriff and must be in Form 166.

(3) A commission for appraisalment and sale shall not be executed until an undertaking in writing satisfactory to the Sheriff to pay the fees and expenses of the Sheriff on demand has been lodged in the Sheriff's office.

(4) The Sheriff shall pay into Court the gross proceeds of the sale of any property sold by him under a commission for sale and shall bring into Court the accounts relating to the sale (with vouchers in support) for taxation.

(5) On the taxation of the Sheriff's accounts relating to a sale any person interested in the proceeds of the sale shall be entitled to be heard, and any decision of the Registrar made on the taxation to which objection is taken may be reviewed in the same manner and by the same persons as any decision of a Registrar made in taxation proceedings under Order 59, and Rules 34 to 36 of that Order shall apply accordingly with the necessary modifications.

Undertakings as to expenses (O. 70, r. 23).

23.—(1) Every undertaking under this Order shall be given in writing to the satisfaction of the Sheriff.

(2) Where a party is required by order to give to the Sheriff an undertaking to pay any fees or expenses, the Sheriff may accept instead of an undertaking the deposit with him of such sum as he considers reasonable to meet those fees and expenses.

(3) The Court may, on the application of any party who is dissatisfied with a direction or determination of the Sheriff under this Order, vary or revoke the direction or determination.

Payment into and out of Court (O. 70, r. 24).

24.—(1) Order 22 (except Rules 3, 4, 5 and 12) shall apply in relation to an Admiralty action as it applies to an action for debt or damages.

(2) Subject to paragraph (3), money paid into Court shall not be paid out except in pursuance of an order of the Judge in person.

(3) The Registrar may, with the consent of the parties interested in money paid into Court, order the money to be paid out to the person entitled thereto in the following cases:

- (a) where a claim has been referred to the Registrar for decision and all the parties to the reference have agreed to accept the Registrar's decision and to the payment out of any money in Court in accordance with that decision;
- (b) where property has been sold and the proceeds of sale thereof paid into Court, and the parties are agreed as to the persons to whom the proceeds shall be paid and the amount to be paid to each of those persons; and
- (c) where in any other case there is no dispute between the parties.

(4) Where in an Admiralty action money has been paid into court pursuant to an order made under Order 29, Rule 12 the Registrar may make an order under Rule 13 (1) of that Order for the money to be paid out to the person entitled thereto.

Summons for directions (O. 70, r. 25).

25.—(1) Subject to paragraphs (2) and (3), Order 25 shall apply to Admiralty actions (other than limitation actions) as it applies to other actions.

(2) An order made on the summons for directions or any application under the summons for directions shall determine whether the trial is to be without assessors or with one or more assessors, nautical or otherwise.

(3) An order may be made on the summons for directions or any application under the summons for directions, or a direction may be given at the trial, limiting the witnesses who may be called at the trial, whether they are expert witnesses or not.

(4) Any such order or direction as is referred to in paragraphs (2) and (3) (including an order made on appeal) may be varied or revoked by a subsequent order or direction made or given at or before the trial by the Judge in person or, with the Judge's consent, by the Registrar.

Fixing date for trial, etc. (O. 70, r. 26).

26.—(1) Subject to paragraphs (2) and (3), Order 34 shall apply to Admiralty actions as it applies to other actions.

(2) Not less than 7 days before the date fixed for the trial, the party by whom the action was set down for trial must, unless the Court otherwise orders, file in the Registry —

- (a) if trial with one or more assessors has been ordered, a praecipe for his or their attendance; and
- (b) 3 copies of any preliminary acts.

(3) Order 21, Rule 2 (4) shall not apply to Admiralty actions.

Stay of proceedings in collision, etc., actions until security given (O. 70, r. 27).

27. Where an action *in rem*, being an action to *enforce* any such claim as is referred to in Rule 3 (1), is begun and a cross action *in rem* arising out of the same collision or other occurrence as the first-mentioned action is subsequently begun, or a counterclaim arising out of that occurrence is made in the first-mentioned action, then —

- (a) if the ship in respect of or against which the first-mentioned action is brought has been arrested or security given to prevent her arrest; but
- (b) the ship in respect of or against which the cross action is brought or the counterclaim made cannot be arrested and security has not been given to satisfy any judgment given in favour of the party bringing the cross action or making the counterclaim,

the Court may stay proceedings in the first-mentioned action until the security is given to satisfy any judgment given in favour of that party.

Inspection of ship, etc. (O. 70, r. 28).

28. Without prejudice to its powers under Order 29, Rules 2 and 3, and Order 35, Rule 5, the Court may, on the application of any party, make an order for the inspection by the assessors (if the action is tried with assessors), or by any party or witness, of any ship or other property, whether movable or immovable, the inspection of which may be necessary or desirable for the purpose of obtaining full information or evidence in connection with any issue in the action.

Examination of witnesses and other persons (O. 70, r. 29).

29.—(1) The power conferred by Order 39, Rule 1 shall extend to the making of an order authorising the examination of a witness or person on oath before a Judge sitting in Court as if for the trial of the cause or matter, without that cause or matter having been set down for trial or called on for trial.

(2) The power conferred by the said Rule 1 shall also extend to the making of an order, with the consent of the parties, providing for the evidence of a witness being taken as if before an examiner, but without an examiner actually being appointed or being present.

(3) Where an order is made under paragraph (2), it may make provision for any consequential matters and, subject to any provision so made, the following provisions shall have effect:

- (a) the party whose witness is to be examined shall provide a shorthand writer to take down the evidence of the witness;

- (b) any representative, being an advocate or a solicitor, of either of the parties shall have authority to administer the oath to the witness;
- (c) the shorthand writer need not himself be sworn but shall certify in writing as correct a transcript of his notes of the evidence and deliver it to the solicitor for the party whose witness was examined, and that solicitor shall file it in the Registry; and
- (d) unless the parties otherwise agree or the Court otherwise orders, the transcript or a copy thereof shall, before the transcript is filed, be made available to the counsel or other persons who acted as advocates at the examination, and if any of those persons is of opinion that the transcript does not accurately represent the evidence he shall make a certificate specifying the corrections which in his opinion should be made therein, and that certificate must be filed with the transcript.

(4) In actions in which preliminary acts fall to be filed under Rule 17, an order shall not be made under Order 39, Rule 1, authorising any examination of a witness before the preliminary acts have been filed, unless for special reasons the Court thinks fit so to direct.

(5) Order 39 shall apply in relation to an Admiralty cause or matter.

Trial without Pleadings (O. 70, r. 30).

30. Order 18, Rule 22 shall apply to Admiralty actions as it applies to other actions except that the summons must be served on every other party not less than 7 days before the day specified in the summons for the hearing thereof.

Issue of writ of subpoena (O. 70, r. 31).

31. Order 38, Rule 14 shall apply in relation to the issue of a writ of subpoena *ad testificandum* or subpoena *duces tecum* in an Admiralty cause or matter.

Proceedings for apportionment of salvage (O. 70, r. 32).

32.—(1) Proceedings for the apportionment of salvage the aggregate amount of which has already been ascertained shall be begun by originating motion.

(2) The notice of such motion, together with the affidavits in support thereof, must be filed in the Registry at least 7 days before the hearing of the motion, unless the Court gives leave to the contrary, and a copy of the notice and of the affidavits must be served on all the other parties to the proceedings before the originals are filed.

(3) On the hearing of the motion the Judge may exercise any of the powers conferred by section 175 of the Merchant Shipping Act 1995 (Act 19 of 1995).

Filing and service of notice of motion (O. 70, r. 33).

33.—(1) Notice of a motion in any action, together with the affidavits (if any) in support thereof, must be filed in the Registry at least two days before the hearing of the motion unless the Court gives leave to the contrary.

(2) A copy of the notice of motion and of the affidavits (if any) in support thereof must be served on all the other parties to the proceedings.

Agreement between solicitors may be made order of Court (O. 70, r. 34).

34. Any agreement in writing between the solicitors of the parties to a cause or matter, dated and signed by the solicitors, may, if the Registrar thinks it reasonable and such as the Judge would under the circumstances allow, be filed in the Registry, and the agreement shall thereupon become an order of Court and have the same effect as if such order had been made by the Judge in person.

Originating summons: Procedure (O. 70, r. 35).

35.—(1) Order 12 shall apply in relation to an originating summons in Admiralty proceedings to which appearance is required to be entered.

(2) Order 28, Rule 2 shall apply in relation to Admiralty proceedings begun by originating summons.

(3) Rule 26 (except paragraph (3)) shall, with any necessary modifications, apply in relation to an Admiralty cause or matter begun by originating summons, and Order 28, Rule 9 shall not apply to such a cause or matter.

Limitation action: Parties (O. 70, r. 36).

36.—(1) In a limitation action the person seeking relief shall be the plaintiff and shall be named in the writ by his name and not described merely as the owner of, or as bearing some other relation to, a particular ship or other property.

(2) The plaintiff must make one of the persons with claims against him in respect of the casualty to which the action relates defendant to the action and may make all or any of the others defendants also.

(3) At least one of the defendants to the action must be named in the writ by his name but the other defendants may be described generally and not named by their names.

(4) The writ must be served on one or more of the defendants who are named by their names therein and need not be served on any other defendant.

(5) In this Rule and Rules 37, 38 and 39, “name” includes a firm name or the name under which a person carries on his business, and where any person with a claim against the plaintiff in respect of the casualty to which

the action relates has described himself for the purposes of his claim merely as the owner of, or as bearing some other relation to, a ship or other property, he may be so described as defendant in the writ and, if so described, shall be deemed for the purposes of the Rules aforesaid to have been named in the writ by his name.

Limitation action: Summons for decree or directions (O. 70, r. 37).

37.—(1) Within 7 days after the entry of appearance by one of the defendants named by their names in the writ, or, if none of them enters an appearance, within 7 days after the time limited for appearing, the plaintiff, without serving a statement of claim, must take out a summons before the Registrar asking for a decree limiting his liability or, in default of such a decree, for directions as to the further proceedings in the action.

(2) The summons must be supported by an affidavit or affidavits proving —

(a) the plaintiff's case in the action; and

(b) if none of the defendants named in the writ by their names has entered an appearance, service of the writ on at least one of the defendants so named.

(3) The affidavit in support of the summons must state —

(a) the names of all the persons who, to the knowledge of the plaintiff, have claims against him in respect of the casualty to which the action relates, not being defendants to the action who are named in the writ by their names; and

(b) the address of each of those persons, if known to the plaintiff.

(4) The summons and every affidavit in support thereof must, at least 7 clear days before the hearing of the summons, be served on any defendant who has entered an appearance.

(5) On the hearing of the summons the Registrar, if it appears to him that it is not disputed that the plaintiff has a right to limit his liability, shall make a decree limiting the plaintiff's liability and fix the amount to which the liability is to be limited.

(6) On the hearing of the summons the Registrar, if it appears to him that any defendant has not sufficient information to enable him to decide whether or not to dispute that the plaintiff has a right to limit his liability, shall give such directions as appear to him to be appropriate for enabling the defendant to obtain such information and shall adjourn the hearing.

(7) If on the hearing or resumed hearing of the summons the Registrar does not make a decree limiting the plaintiff's liability, he shall give such directions as to the further proceedings in the action as appear to him to be appropriate including, in particular, a direction requiring the taking out of a summons for directions under Order 25.

(8) Any defendant who, after the Registrar has given directions under paragraph (7), ceases to dispute the plaintiff's right to limit his liability must forthwith file a notice to that effect in the Registry, as the case may be, and serve a copy on the plaintiff and on any other defendant who has entered an appearance.

(9) If every defendant who disputes the plaintiff's right to limit his liability serves a notice on the plaintiff under paragraph (8), the plaintiff may take out a summons before the Registrar asking for a decree limiting his liability; and paragraphs (4) and (5) shall apply to a summons under this paragraph as they apply to a summons under paragraph (1).

Limitation action: Proceedings under decree (O. 70, r. 38).

38.—(1) Where the only defendants in a limitation action are those named in the writ by their names and all the persons so named have either been served with the writ or entered an appearance, any decree in the action limiting the plaintiff's liability (whether made by the Registrar or on the trial of the action) —

(a) need not be advertised; but

(b) shall only operate to protect the plaintiff in respect of claims by the persons so named or persons claiming through or under them.

(2) In any case not falling within paragraph (1), any decree in the action limiting the plaintiff's liability (whether made by the Registrar or on the trial of the action) —

(a) shall be advertised by the plaintiff in such manner and within such time as may be provided by the decree; and

(b) shall fix a time within which persons with claims against the plaintiff in respect of the casualty to which the action relates may enter an appearance in the action (if they have not already done so) and file their claims, and, in cases to which Rule 39 applies, take out a summons if they think fit, to set the order aside.

(3) The advertisement to be required under paragraph (2) (a) shall, unless for special reasons the Registrar or Judge thinks fit otherwise to provide, be a single advertisement in each of 3 newspapers specified in the decree, identifying the action, the casualty and the relation of the plaintiff thereto (whether as owner of a ship involved in the casualty or otherwise, as the case may be), stating that the decree has been made and specifying the amounts fixed thereby as the limits of the plaintiff's liability and the time allowed thereby for the entering of appearances, the filing of claims and the taking out of summonses to set the decree aside.

The plaintiff must within the time fixed under paragraph (2) (b) file in the Registry a copy of each newspaper in which the advertisement required under paragraph (2) (a) appears.

(4) The time to be allowed under paragraph (2) (b) shall, unless for special reasons the Registrar or Judge thinks fit otherwise to provide, be not less than two months from the latest date allowed for the appearance of the advertisements; and after the expiration of the time so allowed, no appearance may be entered, claim filed or summons taken out to set aside the decree except with the leave of the Registrar or, on an appeal, of the Judge.

(5) Except as aforesaid, any decree limiting the plaintiff's liability (whether made by a Registrar or on the trial of the action) may make any such provision as is authorised by the Merchant Shipping Act 1995 (Act 19 of 1995).

Limitation action: Proceedings to set aside decree (O. 70, r. 39)

39.—(1) Where a decree limiting the plaintiff's liability (whether made by a Registrar or on the trial of the action) fixes a time in accordance with Rule 38 (2), any person with a claim against the plaintiff in respect of the casualty to which the action relates, who —

(a) was not named by his name in the writ as a defendant to the action; or

(b) if so named, neither was served with the writ nor entered an appearance,

may, within that time, after entering an appearance, take out a summons before the Registrar asking that the decree be set aside.

(2) The summons must be supported by an affidavit or affidavits showing that the defendant in question has a bona fide claim against the plaintiff in respect of the casualty in question and that he has sufficient prima facie grounds for the contention that the plaintiff is not entitled to the relief given him by the decree.

(3) The summons and every affidavit in support thereof must, at least 7 clear days before the hearing of the summons, be served on the plaintiff and any defendant who has entered an appearance.

(4) On the hearing of the summons the Registrar, if he is satisfied that the defendant in question has a bona fide claim against the plaintiff and sufficient prima facie grounds for the contention that the plaintiff is not entitled to the relief given him by the decree, shall set the decree aside and give such directions as to the further proceedings in the action as appear to him to be appropriate including, in particular a direction requiring the taking out of a summons for directions under Order 25.

References to Registrar (O. 70, r. 40).

40.—(1) Any party (referred to in this Rule as the claimant) making a claim which is referred to the Registrar for decision must, within two months after the order is made, or, in a limitation action, within such other period as the Court may direct, file his claim and, unless the reference is in such an action, serve a copy of the claim on every other party.

(2) At any time after the claimant's claim has been filed or, where the reference is in a limitation action, after the expiration of the time limited by the Court for the filing of claims, but, in any case, not less than 28 days before the day appointed for the hearing of the reference, any party to the cause or matter may apply to the Registrar by summons for directions as to the proceedings on the reference, and the Registrar shall give such directions, if any, as he thinks fit including, without prejudice to the generality of the foregoing words, a direction requiring any party to serve on any claimant, within such period as the Registrar may specify, a defence to that claimant's claim.

(3) The reference shall be heard on a day appointed by the Registrar and, unless the reference is in a limitation action or the parties to the reference consent to the appointment of a particular day, the appointment must be made by order on an application by summons made by any party to the cause or matter.

(4) An appointment for the hearing of a reference shall not be made until after the claimant has filed his claim or, where the reference is in a limitation action, until after the expiration of the time limited by the Court for the filing of claims.

(5) Not later than 7 days after an appointment for the hearing of a reference has been made the claimant or, where the reference is in a limitation action, the plaintiff must enter the reference for hearing by lodging in the Registry a praecipe requesting the entry of the reference in the list for hearing on the day appointed.

(6) Not less than 14 days before the day appointed for the hearing of the reference the claimant must file —

- (a) a list, signed by him and every other party, of the items (if any) of his claim which are not disputed, stating the amount (if any) which he and the other parties agree should be allowed in respect of each such item; and
- (b) such affidavits or other documentary evidence as is required to support the items of his claim which are disputed,

and, unless the reference is in a limitation action, he must at the same time serve on every other party a copy of every document filed under this paragraph.

(7) If the claimant fails to comply with paragraph (1) or (6) (b), the Court may, on the application of any other party to the cause or matter, dismiss the claim.

Hearing of reference (O. 70, r. 41).

41.—(1) The Registrar may adjourn the hearing of a reference from time to time as he thinks fit.

(2) At or before the hearing of a reference, the Registrar may give a direction limiting the witnesses who may be called, whether expert witnesses or not, but any such direction may, on sufficient cause being shown, be revoked or varied by a subsequent direction given at or before the hearing.

(3) Subject to paragraph (2), evidence may be given orally or by affidavit or in such other manner as may be agreed upon, and the evidence may, on the application of either party, but at the expense in the first instance of the party on whose behalf the application is made, be taken down by the official shorthand writer, if any, and in such case a transcript of the shorthand writer's notes, certified by him to be correct, shall be admitted to prove the oral evidence of the witness on an objection to the Registrar's decision.

(4) When the hearing of the reference has been concluded, the Registrar shall —

- (a) reduce to writing his decision on the question arising in the reference (including any order as to costs) and cause it to be filed;
- (b) cause to be filed either with his decision or subsequently such statement (if any) of the grounds of the decision as he thinks fit; and
- (c) send to the parties to the reference notice that he has done so.

(5) Where no statement of the grounds of the Registrar's decision is filed with his decision and no intimation has been given by the Registrar that he intends to file such a statement later, any party to the reference may, within 14 days after the filing of the decision, make a written request to the Registrar to file such a statement.

Objection to decision on reference (O. 70, r. 42).

42.—(1) Any party to a reference to the Registrar may, by motion in objection, apply to a Judge in Court to set aside or vary the decision of the Registrar on the reference, but notice of the motion, specifying the points of objection to the decision, must be filed within 14 days after the date on which notice of the filing of the decision was sent to that party under Rule 41 (4) or, if a notice of the filing of a statement of the grounds of the decision was subsequently sent to him thereunder, within 14 days after the date on which that notice was sent.

(2) The decision of the Registrar shall be deemed to be given on the date on which it is filed, but unless he or the Judge otherwise directs, the decision shall not be acted upon until the time has elapsed for filing notice of a motion in objection thereto, or while such a motion is pending or remains undisposed of.

(3) A direction shall not be given under paragraph (2) without the parties being given an opportunity of being heard, but may, if the Registrar announces his intended decision at the conclusion of the hearing of the reference, be incorporated in his decision as reduced to writing under Rule 41 (4).

Inspection of documents filed in Registry (O. 70, r. 43).

43. Order 60, Rule 4 shall apply in relation to documents filed in the Registry.

ORDER 71

NON-CONTENTIOUS PROBATE PROCEEDINGS

Application (O. 71, r. 1).

1. These Rules apply to non-contentious probate proceedings subject to the following Rules.

Interpretation (O. 71, r. 2).

2. In these Rules, unless the context otherwise requires —
 - “Act” means the Probate and Administration Act (Chapter 251);
 - “gross value”, in relation to any estate, means the value of the estate without deduction for debts, encumbrances, funeral expenses or estate duty;
 - “oath” means the oath under section 28 of the Probate and Administration Act;
 - “personal applicant” means a person other than a trust corporation who seeks to obtain a grant without employing a solicitor, and “personal application” has a corresponding meaning;
 - “statutory guardian” means a guardian of an infant appointed by the High Court under sections 5, 6 or 8 of the Guardianship of Infants Act (Chapter 122);
 - “testamentary guardian” means a person as defined in section 7 of the Guardianship of Infants Act;
 - “trust corporation” means a company registered as a trust company under the Trust Companies Act (Chapter 336) and includes the Public Trustee;
 - “will” includes a nuncupative will and any testamentary document or copy or reconstruction thereof.

Personal applications (O. 71, r. 3).

3.—(1) A personal applicant may apply for a grant at the Registry.

(2) A personal applicant may not apply through an agent, whether paid or unpaid, and may not be attended by any person acting or appearing to act as his adviser.

(3) No personal application must be received or proceeded with if —

(a) it becomes necessary to bring the matter before the Court by action;

(b) an application has already been made by a solicitor on behalf of the applicant and has not been withdrawn; or

(c) the Registrar otherwise directs.

(4) After a will has been deposited in the Registry by a personal applicant, it may not be delivered to the applicant or to any other person unless in special circumstances the Registrar directs.

(5) A personal applicant must produce a certificate of death of the deceased or such other evidence of the death as the Registrar may approve.

(6) Every oath, affidavit or bond required on a personal application (other than a bond given by a corporation in accordance with Rule 34) must be sworn or executed by all the deponents or obligors before a Commissioner for Oaths.

Duty of Registrar on receiving application for grant (O. 71, r. 4).

4.—(1) The Registrar must not allow any grant to issue until all inquiries which he may see fit to make have been answered to his satisfaction.

(2) The Registrar may require proof of the identity of the deceased or of the applicant for the grant beyond that contained in the petition.

(3) Except with the leave of the Registrar, no grant of probate or of administration with the will annexed shall issue within 7 days of the death of the deceased and no grant of administration shall issue within 14 days thereof.

(4) When an application for a grant is filed at the Subordinate Courts, the Registrar thereof must give notice in Form 167 to the Registrar of the Supreme Court and notify the serial number of the Probate to the latter, who must enter that number in the probate book.

(5) The Registrar of the Subordinate Courts must notify the Registrar of the Supreme Court of all grants made under the Act and the Rules of this Order.

Application for grant by petition (O. 71, r. 5).

5.—(1) Every application for a grant must be by petition in one of the forms in Form 168 and the petition must be verified by oath which must be contained in an affidavit sworn by the applicant, and supported by such other papers as the Registrar may require.

(2) On an application for a grant of administration the petition must state whether, and, if so, in what manner all persons having a prior right to a grant have been cleared off, and whether any minority or life interest arises under the will or intestacy.

(3) Where the deceased died domiciled outside Singapore, the petition must state where the deceased died domiciled.

(4) If the petition states where the deceased died domiciled (whether in or outside Singapore) a statement as to the country in which he died domiciled may be included in the grant.

(5) In every petition —

(a) where any person is named as a relative of the deceased, he must, if a lawful relative, be so described, and where the legality of any such relationship is alleged by virtue of any law or custom, such law or custom must be stated; and

(b) where it is alleged that any person is entitled to share in the distribution of an intestate's estate, it must be stated how such person is related to the deceased and whether he is the only or one of the next-of-kin and by what law or custom so entitled.

(6) Where an application for a grant is, for the first time, made after the lapse of 6 months from the death of the deceased, the reason for the delay in making the application must be set out in the petition.

Grant in additional name (O. 71, r. 6).

6. Where it is necessary to describe the deceased in a grant by some name in addition to his true name, the applicant must state in the petition the true name of the deceased and must depose that some part of the estate, specifying it, was held in the other name, or as to any other reason that there may be for the inclusion of the other name in the grant.

Marking of wills (O. 71, r. 7).

7.—(1) Every will in respect of which an application for a grant is made must be exhibited to the petition and a certified true copy of the will must be annexed thereto.

(2) Where the will is not in the English language there must also be annexed to the application under paragraph (1) a translation certified by a Court interpreter or a translation verified by the affidavit of a person qualified to translate it.

Engrossments for purposes of record (O. 71, r. 8).

8.—(1) Where the Registrar considers that in any particular case a photographic copy of the original will would not be satisfactory for the purposes of record, he may require an engrossment suitable for photographic reproduction to be filed.

(2) Where a will contains alterations which are not admissible to proof, there must be filed an engrossment of the will in the form in which it is to be proved.

(3) Any engrossment filed under this Rule must reproduce the punctuation, spacing and division into paragraphs of the will and, if it is one to which paragraph (2) applies, it must be on durable paper.

(4) Where any pencil writing appears on a will, there must be filed a copy of the will or of the pages or sheets containing the pencil writing, in which there must be underlined in red ink those portions which appear in pencil in the original.

Evidence as to due execution of will (O. 71, r. 9).

9.—(1) Where a will contains no attestation clause or the attestation clause is insufficient or where it appears to the Registrar that there is some doubt about the due execution of the will, he shall, before admitting it to proof, require an affidavit as to due execution from one or more of the attesting witnesses or, if no attesting witness is conveniently available, from any other person who was present at the time the will was executed.

(2) If no affidavit can be obtained in accordance with paragraph (1), the Registrar may, if he thinks fit having regard to the desirability of protecting the interest of any person who may be prejudiced by the will, accept evidence on affidavit from any person he may think fit to show that the signature on the will is in the handwriting of the deceased, or of any other matter which may raise a presumption in favour of the execution of the will.

(3) If the Registrar, after considering the evidence —

(a) is satisfied that the will was not duly executed, he shall refuse probate and shall mark the petition accordingly; or

(b) is doubtful whether the will was duly executed, he may refer the matter to the Court.

Execution of will of blind or illiterate testator (O. 71, r. 10).

10. Before admitting to proof a will which appears to have been signed by a blind or illiterate testator or by another person by direction of the testator, or which for any other reason gives rise to doubt as to the testator having had knowledge of the contents of the will at the time of its execution, the Registrar must satisfy himself that the testator had such knowledge.

Evidence as to terms, conditions and date of execution of will (O. 71, r. 11).

11.—(1) Where there appears in a will any obliteration, interlineation, or other alteration which is not authenticated in the manner prescribed by section 15 of the Wills Act (Chapter 352), or by the re-execution of the will or by the execution of a codicil, the Registrar shall require evidence to show whether the alteration was present at the time the will was executed and shall give directions as to the form in which the will is to be proved:

Provided that this paragraph shall not apply to any alteration which appears to the Registrar to be of no practical importance.

(2) If from any mark on the will it appears to the Registrar that some other document has been attached to the will, or if a will contains any reference to another document in such terms as to suggest that it ought to be incorporated in the will, the Registrar may require the document to be produced and may call for such evidence in regard to the attaching or incorporation of the document as he may think fit.

(3) Where there is a doubt as to the date on which a will was executed, the Registrar may require such evidence as he thinks necessary to establish the date.

Attempted revocation of will (O. 71, r. 12).

12. Any appearance of attempted revocation of a will by burning, tearing or otherwise, and every other circumstance leading to a presumption of revocation by the testator, must be accounted for to the Registrar's satisfaction.

Affidavit as to due execution, terms, etc., of will (O. 71, r. 13).

13. The Registrar may require an affidavit from any person he may think fit for the purpose of satisfying himself as to any of the matters referred to in Rules 10, 11 and 12, and in any such affidavit sworn by an attesting witness or other person present at the time of the execution of a will the deponent must depose to the manner in which the will was executed.

Wills not proved under section 5 of Wills Act (O. 71, r. 14).

14. Nothing in Rule 9, 10, 11 or 12 shall apply to any will which it is sought to establish otherwise than by reference to section 5 of the Wills Act, but the terms and validity of any such will must be established to the Registrar's satisfaction.

Wills of persons on military service and seamen (O. 71, r. 15).

15. If it appears to the Registrar that there is *prima facie* evidence that a will is one to which section 26 of the Wills Act applies, the will may be admitted to proof if the Registrar is satisfied that it was signed by the testator or, if unsigned, that it is in the testator's handwriting.

Evidence of foreign law (O. 71, r. 16).

16. Where evidence of the law of a country outside Singapore is required on any application for a grant, the affidavit of any person who practises, or has practised, as a barrister or advocate in that country and who is conversant with its law may be accepted by the Registrar unless the deponent is a person claiming to be entitled to the grant or his attorney, or is the spouse of any such person or attorney:

Provided that the Registrar may in special circumstances accept the affidavit of any other person who does not possess the qualifications required by this Rule if the Registrar is satisfied that by reason of such person's official position or otherwise he has knowledge of the law of the country in question.

Order of priority for grant where deceased left a will (O. 71, r. 17).

17. The person or persons entitled to a grant of probate or administration with the will annexed must be determined in accordance with sections 8 and 13 of the Act.

Grants to attesting witnesses, etc. (O. 71, r. 18).

18. Where a gift to any person fails by reason of section 9 of the Wills Act (Chapter 352), such person shall not have any right to a grant as a beneficiary named in the will, without prejudice to his right to a grant in any other capacity.

Order of priority for grant in case of intestacy (O. 71, r. 19).

19. Where the deceased died wholly intestate, the person entitled to a grant of administration must be determined in accordance with section 18 of the Act.

Right of assignee to a grant (O. 71, r. 20).

20.—(1) Where all the persons entitled to the estate of the deceased (whether under a will or on intestacy) have assigned their whole interest in the estate to one or more persons, the assignee or assignees shall replace, in the order of priority for a grant of administration, the assignor or, if there are two or more assignors, the assignor with the highest priority.

(2) Where there are two or more assignees, administration may be granted with the consent of the others to any one or more (not exceeding 4) of them.

(3) In any case where administration is applied for by an assignee, a copy of the instrument of assignment must be lodged in the Registry.

Additional personal representatives (O. 71, r. 21).

21.—(1) An application under section 6 (3) of the Act to add a personal representative must be made by summons to the Registrar and must be supported by affidavit by the applicant, the consent of the person proposed to be added as personal representative and such other evidence as the Registrar may require.

(2) A summons under paragraph (1) must be served on all persons entitled in the same degree as the applicant.

(3) On any such application the Registrar may direct that a note shall be made on the original grant of the addition of a further personal representative, or he may impound or revoke the grant or make such other order as the circumstances of the case may require.

Grants where two or more persons entitled in same degree (O. 71, r. 22).

22.—(1) A grant may be made to any person entitled thereto without notice to other persons entitled in the same degree.

(2) A dispute between persons entitled to a grant in the same degree must be brought by summons before the Registrar.

(3) Unless the Registrar otherwise directs, administration shall be granted to a living person in preference to the personal representative of a deceased person who would, if living, be entitled in the same degree and to a person not under disability in preference to an infant entitled in the same degree.

(4) If the issue of a summons under this Rule is known to the Registrar, he shall not allow any grant to be extracted until such summons is finally disposed of.

Exceptions to rules as to priority (O. 71, r. 23).

23.—(1) Nothing in Rule 17, 19 or 22 shall operate to prevent a grant being made to any person to whom a grant may or may be required to be made under any written law.

(2) The Rules mentioned in paragraph (1) shall not apply where the deceased died domiciled outside Singapore, except in a case to which the proviso to Rule 25 applies.

Grants to persons having *spes successionis* (O. 71, r. 24).

24. When the beneficial interest in the whole estate of the deceased is vested absolutely in a person who has renounced his right to a grant and has consented to administration being granted to the person or persons who would be entitled to his estate if he himself had died intestate, administration may be granted to such person or one of more (not exceeding 4) of such persons.

Grants where deceased died domiciled outside Singapore (O. 71, r. 25).

25. Where the deceased died domiciled outside Singapore, an application may be made to the Registrar for an order for a grant —

- (a) to the person entrusted with the administration of the estate by the Court having jurisdiction at the place where the deceased died domiciled;
- (b) to the person entitled to administer the estate by the law of the place where the deceased died domiciled;
- (c) if there is no such person as is mentioned in sub-paragraph (a) or (b) or if in the opinion of the Registrar the circumstances so require, to such person as the Registrar may direct;
- (d) if, by virtue of section 6 of the Act, a grant is required to be made to, or if the Registrar in his discretion considers that a grant should be made to, not less than two administrators, to such person as the Registrar may direct jointly with any such person as is mentioned in paragraph (a) or (b) or with any other person:

Provided that without any such application as aforesaid —

- (a) probate of any will which is admissible to proof may be granted —
 - (i) if the will is in the English language, to the executor named therein;
 - (ii) if the will describes the duties of a named person in terms sufficient to constitute him executor according to the tenor of the will, to that person;
- (b) where the whole of the estate in Singapore consists of immovable property, a grant limited thereto may be made in accordance with the law which would have been applicable if the deceased had died domiciled in Singapore.

Grants to attorneys (O. 71, r. 26).

26. Where a person entitled to a grant resides outside Singapore, administration may be granted to his lawfully constituted attorney for his use and benefit, limited until such person shall obtain a grant or in such other way as the Registrar may direct:

Provided that the attorney must file a certified true copy of the power of attorney with the petition or prove that he has deposited it or a certified copy of it in the Registry of the Supreme Court in the manner provided by the Conveyancing and Law of Property Act (Chapter 61):

And provided that where the person so entitled is an executor, administration shall not be granted to his attorney without notice to the other executors, if any, unless such notice is dispensed with by the Registrar.

Grants on behalf of infants (O. 71, r. 27).

27.—(1) Where the person to whom a grant would otherwise be made is an infant, administration for his use and benefit until he attains the age of 21 years shall, subject to paragraphs (3) and (5), be granted —

- (a) to both parents of the infant jointly or to the statutory or testamentary guardian of the infant or to any guardian appointed by a court of competent jurisdiction: or
- (b) if there is no such guardian able and willing to act and the infant has attained the age of 16 years, to any next-of-kin nominated by the infant or where the infant is a married woman, to any such next-of-kin or to her husband if nominated by her.

(2) Any person nominated under paragraph (1) (b) may represent any other infant whose next-of-kin he is, being an infant below the age of 16 years entitled in the same degree as the infant who made the nomination.

(3) Notwithstanding anything in this Rule, administration for the use and benefit of the infant until he attains the age of 21 years may be granted to any person assigned as guardian by order of the Registrar in default of, or jointly with, or to the exclusion of, any such person as is mentioned in paragraph (1); and such an order may be made on application by the intended guardian, who shall file an affidavit in support of the application and, if required by the Registrar, an affidavit of fitness sworn by a responsible person.

(4) Where by virtue of section 6 of the Act, a grant is required to be made to not less than two administrators and there is only one person competent and willing to take a grant under paragraphs (1), (2) and (3), administration may, unless the Registrar otherwise directs, be granted to such person jointly with any other person nominated by him as a fit and proper person to take the grant.

(5) Where an infant who is sole executor has no interest in the residuary estate of the deceased, administration for the use and benefit of the infant until he attains the age of 21 years shall, unless the Registrar otherwise directs, be granted to the person entitled to the residuary estate.

(6) An infant's right to administration may be renounced only by a person assigned as guardian under paragraph (3) and authorised to renounce by the Registrar.

Grants where infant co-executor (O. 71, r. 28).

28.—(1) Where one of two or more executors is an infant, probate may be granted to the other executor or executors not under disability, with power reserved of making the like grant to the infant on his attaining the age of 21 years, and administration for the use and benefit of the infant until he attains the age of 21 years may be granted under Rule 27 if and only if

the executors who are not under disability renounce or, on being cited to accept or refuse a grant, fail to make an effective application thereof.

(2) An infant executor's right to probate on attaining the age of 21 years may not be renounced by any person on his behalf.

Grants in case of mental or physical incapacity (O. 71, r. 29).

29.—(1) Where the Registrar is satisfied that a person entitled to a grant is by reason of unsoundness of mind or physical incapacity incapable of managing himself or his affairs, administration for his use and benefit, limited during his incapacity or in such other way as the Registrar may direct, may be granted —

- (a) in the case of unsoundness of mind, to the person authorised by the High Court; or
- (b) where there is no person so authorised, or in the case of physical incapacity —
 - (i) if the person incapable is entitled as executor, to the person entitled to the residuary estate of the deceased;
 - (ii) if the person incapable is entitled otherwise than as an executor, to the person who would be entitled to a grant in respect of his estate if he had died intestate, or to such other person as the Registrar may by order direct.

(2) Unless the Registrar otherwise directs, no grant of administration shall be made under paragraph (1) unless all persons entitled in the same degree as the person incapable have been cleared off.

(3) In the case of physical incapacity, notice of intended application for a grant under paragraph (1) shall, unless the Registrar otherwise directs, be given to the person alleged to be so incapable.

Grants to trust corporations and other corporate bodies (O. 71, r. 30).

30.—(1) Where a trust corporation applies for a grant through one of its officers, such officer must file a certified copy of the resolution authorising him to make the application and must depose in the petition that the corporation is a trust corporation, and that it has power to accept a grant:

Provided that it shall not be necessary to file a certified copy of the resolution where the officer through whom the application is made is included in a list of persons authorised to make such applications kept by the Registrar.

(2) Where a trust corporation applies for a grant of administration otherwise than as attorney for some person, there must be filed with the petition the consents of all persons entitled to a grant and of all persons

interested in the residuary estate of the deceased, unless the Registrar directs that such consents be dispensed with on such terms, if any, as he may think fit.

(3) Where a corporation (not being a trust corporation) would, if an individual, be entitled to a grant, administration for its use and benefit, limited until further representation is granted, may be granted to its nominee or, if the corporation has its principal place of business outside Singapore, its nominee or lawfully constituted attorney, and a copy of the resolution appointing the nominee or, as the case may be, the power of attorney, sealed by the corporation or otherwise authenticated to the Registrar's satisfaction, must be filed with the petition for the grant, and the petition must state that the corporation is not a trust corporation.

Renunciation of probate and administration (O. 71, r. 31).

31.—(1) Renunciation of probate by an executor shall not operate as renunciation of any right which he may have to a grant of administration in some other capacity unless he expressly renounces such right.

(2) Unless the Registrar otherwise directs, no person who has renounced administration in one capacity may obtain a grant thereof in some other capacity.

(3) A renunciation of probate or administration may be retracted at any time by leave of the Court in accordance with section 5 of the Act:

Provided that only in exceptional circumstances may leave be given to an executor to retract a renunciation of probate after a grant has been made to some other person entitled in a lower degree.

(4) A written renunciation of a right to a grant under section 3 of the Act must be in one of the forms in Form 169.

Notice to Attorney-General of intended application for grant (O. 71, r. 32)

32. In any case in which it appears that the Government is or may be beneficially interested in the estate of a deceased person, notice of intended application for a grant must be given by the applicant to the Attorney-General, and the Registrar may direct that no grant shall issue within a specified time after the notice has been given.

Administration oath (O. 71, r. 33).

33. An administration oath under section 28 of the Act must be in Form 170 and must be attested by a commissioner for oaths.

Administration bonds (O. 71, r. 34).

34.—(1) An administration bond under section 29 of the Act must be in Form 171 and the signature of the administrator and any surety (not being, in either case, a corporation) must be attested by a commissioner for oaths.

(2) Except in a case to which paragraph (3) applies or where the Registrar otherwise directs, there must be two sureties to every administration bond.

(3) No surety shall be required on an application for a grant of administration —

(a) by a trust corporation, whether alone or jointly with an individual;

(b) by an employee of the Government acting in his official capacity;

(c) where the deceased left no estate.

(4) The Registrar must so far as possible satisfy himself that every surety to an administration bond is a responsible person.

(5) Unless the Registrar otherwise directs, no person shall be accepted as a surety unless he is resident in Singapore.

(6) No officer of the Registry shall become a surety without the leave of the Registrar.

(7) Where the proposed surety is a corporation (other than a trust corporation), there must be filed an affidavit by the proper officer of the corporation to the effect that it has power to act as surety and has executed the bond in the manner prescribed by its constitution, and containing sufficient information as to the financial position of the corporation to satisfy the Registrar that its assets are sufficient to satisfy all claims which may be made against it under any administration bond in respect of which it is or is likely to become a surety:

Provided that the Registrar may, instead of requiring an affidavit in every case, accept an affidavit made not less often than once in every year together with an undertaking by the corporation to notify the Registrar forthwith in the event of any alteration in its constitution affecting its power to become surety to administration bonds.

(8) An application under section 31 of the Act for an order to assign an administration bond must be made by summons to the Registrar and the summons must be served on the administrator and on every surety.

Forms of grants (O. 71, r. 35).

35. A grant made under the Act and the Rules of this Order must be in one of the forms in Form 172.

Amendment and revocation of grant (O. 71, r. 36).

36.—(1) If the Registrar is satisfied that a grant should be amended or revoked he may make an order accordingly:

Provided that except in special circumstances no grant shall be amended or revoked under this Rule except on the application or with the consent of the person to whom the grant was made.

(2) The Registrar of the Subordinate Courts must notify the Registrar of the Supreme Court of any amendment or revocation of a grant under paragraph (1).

Caveats (O. 71, r. 37).

37.—(1) Any person who wishes to ensure that no grant is made without notice to himself may enter a caveat.

(2) When a caveat is entered, the Registrar of the Subordinate Courts must forward a copy of the caveat and give notice in Form 167 to the Registrar of the Supreme Court.

(3) Any person who wishes to enter a caveat (referred to as the caveator) may do so by filing the caveat in Form 173 in the Registry and obtaining an acknowledgement of entry from the proper officer, or by sending through the post at his own risk the caveat to the Registry.

(4) Where the caveat is entered by a solicitor on the caveator's behalf, the name of the caveator must be stated.

(5) Except as otherwise provided by this Rule, a caveat shall remain in force for 6 months from the date on which it is entered and shall then cease to have effect, without prejudice to the entry of a further caveat or caveats.

(6) The Registrar must maintain an index of caveats entered in the Registry and on receiving an application for a grant, he must cause the index to be searched.

(7) The Registrar must not make any grant if he has knowledge of an effective caveat in respect thereof:

Provided that no caveat shall operate to prevent the making of a grant on the day on which the caveat is filed.

(8) A caveat may be warned by the issue from the Registry of a warning in Form 174 at the instance of any person interested (referred to in this Rule as the person warning) which must state his interest and, if he claims under a will, the date of the will, and must require the caveator to give particulars of any contrary interest which he may have in the estate of the deceased and every warning or a copy thereof must be served on the caveator and the Registrar.

(9) A caveator who has not entered an appearance in Form 175 to a warning may at any time withdraw his caveat by giving notice at the Registry and serving a copy of it on the Registrar and the caveat shall thereupon cease to have effect and, if it has been warned, the caveator must give notice of withdrawal of the caveat to the person warning.

(10) A caveator having an interest contrary to that of the person warning may, within 8 days of service of the warning upon him inclusive of the day of such service, or at any time thereafter if no affidavit has been filed under paragraph (12), enter an appearance in Form 175 in the Registry, and must serve on the person warning and the Registrar a copy of it sealed with the seal of the Court.

(11) A caveator having no interest contrary to that of the person warning but wishing to show cause against the making of a grant to that person may, within 8 days of service of the warning upon him inclusive of the day of such service, or at any time thereafter if no affidavit has been filed under paragraph (12), issue and serve a summons for directions, which must be returnable before the Registrar.

(12) If the time limited for appearance in Form 175 has expired and the caveator has not entered an appearance, the person warning may file in the Registry an affidavit showing that the warning was duly served and that he has not received a summons for directions under paragraph (11), and thereupon the caveat shall cease to have effect.

(13) Except with the leave of the Registrar, no further caveat may be entered by or on behalf of any caveator whose caveat has ceased to have effect under paragraph (12) or Rule 40.

(14) Upon an appearance being entered in answer to the warning of a caveat, the matter shall be deemed to be contested and the expenses of entry of such caveat and the warning thereof shall be considered as costs in the cause.

(15) In this Rule, "grant" includes a grant by any court outside Singapore which is produced for resealing by the High Court.

Contested matters (O. 71, r. 38).

38.—(1) Every contested matter must be referred to a Judge who may dispose of the matter in dispute in a summary manner or direct that the provisions of Order 72 shall apply.

(2) Where a matter is directed to be disposed of summarily the petition (if any) shall ordinarily be adjourned into open Court for hearing and the Court may on such adjourned hearing either grant or refuse the petitioner's prayer or make such other order as may be just.

Notice of commencement of probate action (O. 71, r. 39).

39. Upon the commencement of a probate action, the Registrar shall, in respect of each caveat then in force (other than a caveat entered by a party to the probate action), give to the caveator notice of the commencement of the action and, upon the subsequent entry of a caveat at any time when the action is pending, shall likewise notify the caveator of the existence of the action.

Effect of caveat, etc., upon commencement of probate action (O. 71, r. 40).

40. Unless the Registrar by order made on summons otherwise directs —

- (a) any caveat in force at the commencement of proceedings by way of citation or motion shall, unless withdrawn pursuant to Rule 37 (9), remain in force until an application for a grant is made by the person shown to be entitled thereto by the decision of the Court in such proceedings, and upon such application any caveat entered by a party who had notice of the proceedings shall cease to have effect;
- (b) any caveat in respect of which an appearance to a warning has been entered shall remain in force until the commencement of a probate action; and
- (c) the commencement of a probate action shall, whether or not any caveat has been entered, operate to prevent the sealing of a grant (other than a grant under section 20 of the Act) until application for a grant is made by the person shown to be entitled thereto by the decision of the Court in such action, and upon such application any caveat entered by a party who had notice of the action, or by a caveator who was given notice under Rule 39, shall cease to have effect.

Citations (O. 71, r. 41).

41.—(1) Every citation in one of the forms in Form 176 must issue from the Registry.

(2) Every averment in a citation, and such other information as the Registrar may require, must be verified by an affidavit sworn by the person issuing the citation (referred to in these Rules as the citor) or, if there are two or more citors, by one of them:

Provided that the Registrar may in special circumstances accept an affidavit sworn by the citor's solicitor.

(3) The citor must enter a caveat before issuing a citation.

(4) Every citation must be served personally on the person cited unless the Registrar, on cause shown by affidavit, directs some other mode of service, which may include notice by advertisement.

(5) Every will referred to in a citation must be filed in the Registry before the citation is issued, except where the will is not in the citor's possession and the Registrar is satisfied that it is impracticable to require it to be filed.

(6) A person who has been cited to appear may, within 8 days of service of the citation upon him inclusive of the day of such service, or, at any time thereafter if no application has been made by the citor under Rule 42 (5) or 43 (2), enter an appearance in Form 175 in the Registry, and must thereafter serve on the citor a copy of it sealed with the seal of the Supreme Court or the Subordinate Courts, as the case may be.

Citation to accept or refuse or to take a grant (O. 71, r. 42).

42.—(1) A citation to accept or refuse a grant may be issued at the instance of any person who would himself be entitled to a grant in the event of the person cited renouncing his right thereto.

(2) Where power to make a grant to an executor has been reserved, a citation calling on him to accept or refuse a grant may be issued at the instance of the executors who have proved the will or of the executors of the last survivor of deceased executors who have proved.

(3) A citation calling on an executor who has intermeddled in the estate of the deceased to show cause why he should not be ordered to take a grant may be issued at the instance of any person interested in the estate at any time after the expiration of 6 months from the death of the deceased:

Provided that no citation to take a grant must issue while proceedings as to the validity of the will are pending.

(4) A person cited who is willing to accept or take a grant may apply ex parte by summons to the Registrar for an order for a grant on filing an affidavit showing that he has entered an appearance in Form 175 and that he has not been served by the citor with notice of any application for a grant to himself.

(5) If the time limited for appearance has expired and the person cited has not entered an appearance, the citor may —

- (a) in the case of a citation under paragraph (1), apply to the Registrar for an order for a grant to himself;
- (b) in the case of a citation under paragraph (2), apply to the Registrar for an order that a note to be made on the grant that the executor in respect of whom power was reserved has been duly cited and has not appeared and that all his rights in respect of the executorship have wholly ceased; and

- (c) in the case of a citation under paragraph (3), apply to the Registrar by summons (which must be served on the person cited) for an order requiring such person to take a grant within a specified time or for a grant to himself or some other person specified in the summons.

(6) An application under paragraph (5) must be supported by an affidavit showing that the citation was duly served and that the person cited has not entered an appearance.

(7) If the person cited has entered an appearance but has not applied for a grant under paragraph (4), or has failed to prosecute his application with reasonable diligence, the citor may —

- (a) in the case of a citation under paragraph (1), apply by summons to the Registrar for an order for a grant to himself;
- (b) in the case of a citation under paragraph (2), apply by summons to the Registrar for an order striking out the appearance and for the endorsement on the grant of such a note as is mentioned in paragraph (5) (b); and
- (c) in the case of a citation under paragraph (3), apply by summons to the Registrar for an order requiring the person cited to take a grant within a specified time or for a grant to himself or some other person specified in the summons;

and the summons must be served on the person cited.

Citation to propound a will (O. 71, r. 43).

43.—(1) A citation to propound a will must be directed to the executors named in the will and to all persons interested thereunder, and may be issued at the instance of any citor having an interest contrary to that of the executors or such other persons.

(2) If the time limited for appearance has expired and no person cited has entered an appearance, or if no person who has appeared proceeds with reasonable diligence to propound the will, the citor may apply on motion for an order for a grant as if the will were invalid.

Address for service (O. 71, r. 44).

44. All caveats, citations, warnings and appearances must contain an address for service within the jurisdiction.

Application for order to bring in a will or to attend for examination (O. 71, r. 45).

45. An application under section 54 of the Act, for an order requiring a person to bring in a will or to attend for examination must be made to a Judge by summons, which must be served on every such person as aforesaid.

Applications in respect of nuncupative wills and of copies of wills (O. 71, r. 46).

46.—(1) An application for an order admitting to proof a nuncupative will, or a will contained in a copy, a completed draft, a reconstruction or other evidence of its contents where the original will is not available, may be made to the Court by summons:

Provided that where a will is not available owing to its being retained in the custody of a foreign court or official, a duly authenticated copy of the will may be admitted to proof by virtue of section 11 of the Act without any such order as aforesaid.

(2) The application must be supported by affidavit setting out the grounds of the application and by such evidence on affidavit as the applicant can adduce as to —

- (a) the due execution of the will;
- (b) its existence after the death of the testator; and
- (c) the accuracy of the copy or other evidence of the contents of the will,

together with any consents in writing to the application given by any persons not under disability who would be prejudiced by the grant.

Issue of office copies of will, etc. (O. 71, r. 47).

47.—(1) An office copy of the whole or any part of a will, may, on payment of the prescribed fee, be obtained from the Registry.

(2) Where copies are required of original wills or other documents deposited under rule 47A (1), such copies may be photographic copies certified under the hand of the Registrar to be true copies and sealed with the seal of the Court.

(3) Copies, not being photographic copies, of original wills or other documents deposited under rule 47A (1) must be examined against the documents of which they purport to be copies only if so required by the person demanding the copy, and in such case the copy shall be certified under the hand of the Registrar to be a true copy and sealed with the seal of the Court.

Deposit and receipt for wills, etc. and inspection (O. 71, r. 47A).

47A.—(1) Any will or other testamentary document that is the subject-matter of an application for a grant under the Act and the Rules of this Order must be deposited in the Registry and must be kept in such a place of safe custody as the Registrar may appoint, and the original will or document must not be taken therefrom or inspected without the order of the Registrar.

(2) No original will or other testamentary document in the custody of the Registrar may be inspected or copied except in the presence of a proper officer under the directions of the Registrar.

Power to require application to be made by summons (O. 71, r. 48).

48. The Registrar may require any application made to him to be brought before him by summons.

Memorandum of resealing and notice of resealing (O. 71, r. 49).

49. The memorandum of resealing a grant of probate or administration and the form of notice of resealing the grant pursuant to the Act must be in Form 172A and Form 172B respectively.

ORDER 72

CONTENTIOUS PROBATE PROCEEDINGS

Application and interpretation (O. 72, r. 1).

1.—(1) This Order applies to probate causes and matters and the other provisions of these Rules apply to those causes and matters subject to the provisions of this Order.

(2) In these Rules, “probate action” means an action for the grant of probate of the will, or letters of administration of the estate, of a deceased person or for the revocation of such a grant or for a decree pronouncing for or against the validity of an alleged will, not being an action which is non-contentious.

(3) In this Order, “will” includes a codicil.

Requirements in connection with issue of writ (O. 72, r. 2).

2.—(1) A probate action must be begun by writ, and the writ must be issued out of the Registry.

(2) Before a writ beginning a probate action is issued it must be endorsed with a statement of the nature of the interest of the plaintiff and of the defendant in the estate of the deceased to which the action relates.

(3) A writ beginning an action for the revocation of the grant of probate of the will, or letters of administration of the estate, of a deceased person shall not be issued unless a citation under Rule 7 has been issued or the probate or letters of administration, as the case may be, has or have been lodged in the Registry.

Service of writ out of jurisdiction (O. 72, r. 3).

3.—(1) Subject to paragraph (2), service out of the jurisdiction of a writ, by which a probate action is begun is permissible with the leave of the Court.

(2) Order 11, Rule 2 shall apply in relation to an application for the grant of leave under this Rule.

Intervener in probate action (O. 72, r. 4).

4.—(1) A person not a party to a probate action may apply to the Court for leave to intervene in a probate action.

(2) An application under this Rule must be made by summons supported by an affidavit showing the interest of the applicant in the estate of the deceased.

(3) An applicant who obtains leave to intervene in a probate action shall not be entitled to be heard in the action unless he enters an appearance therein.

(4) Where the Court grants leave under this Rule, it may give such directions as to the service of pleadings, the filing of an affidavit of testamentary scripts or other matters as it thinks necessary.

Citation to see proceedings (O. 72, r. 5).

5.—(1) On the application of the plaintiff, or of any other party who has pleaded in a probate action, a citation may be issued against any person not a party to the action who has an adverse interest to the applicant notifying him that if he does not enter an appearance in the action judgment may be given therein without further notice to him.

(2) Where a person on whom a citation under this Rule is served fails to enter an appearance in the action, the party on whose application the citation was issued shall not be entitled to be heard at the trial of the action without the leave of the Court unless he has filed an affidavit proving due service of the citation on that person.

Entry of appearance (O. 72, r. 6).

6.—(1) The office for entry of appearance in a probate action is in all cases the Registry and Order 12, in its application to such an action, shall have effect accordingly.

(2) Without prejudice to paragraph (1), Order 12, Rules 1, 2 and 3 shall apply to the entry of appearance by a person authorised to intervene in a probate action, and by a person cited under Rule 5, as if ---

(a) that person were a defendant; and

- (b) the parties to the action (in the case of an intervener) or the party at whose instance the citation was issued (in the case of a person cited) were the plaintiff.

Citation to bring in grant (O. 72, r. 7).

7. In an action for the revocation of the grant of probate of the will, or letters of administration of the estate, of a deceased person, a citation against the person to whom the probate or letters of administration, as the case may be, was or were granted requiring him to bring into and leave at the Registry the probate or letters of administration, as the case may be, may be issued on the application of the plaintiff.

Citations (O. 72, r. 8).

8.—(1) A citation under Rule 5 or 7 must be issued out of the Registry and must be settled by the Court before it is issued.

(2) Before such a citation is issued an affidavit verifying the statements of fact to be made in the citation must be sworn by the person applying for it to be issued:

Provided that the Court may in special circumstances allow the affidavit to be sworn by that person's solicitor.

(3) Issue of a citation takes place upon its being sealed by an officer of the Registry.

(4) Without prejudice to Order 62, Rule 5, a citation under Rule 5 or 7 must be served personally on the person cited.

(5) Service out of the jurisdiction of a citation under Rule 5 or 7 is permissible but, in the case of a citation under Rule 7, only with the leave of the Court.

(6) Order 11, Rule 2, shall apply in relation to an application for the grant of leave under paragraph (5).

(7) An order granting leave to serve a citation under Rule 7 out of the jurisdiction must limit a time within which the person to be served with the citation must comply.

(8) Order 11, Rules 3, 4 and 6, shall apply in relation to a citation under Rule 7 as they apply in relation to a writ.

Affidavit of testamentary scripts (O. 72, r. 9).

9.—(1) Unless the Court otherwise directs, the plaintiff and every defendant who has entered an appearance in a probate action must swear an affidavit —

- (a) describing any testamentary script of the deceased person, whose estate is the subject of the action, of which he has any knowledge or, if such be the case, stating that he knows of no such script; and
- (b) if any such script of which he has knowledge is not in his possession or under his control, giving the name and address of the person in whose possession or under whose control it is or, if such be the case, stating that he does not know the name or address of that person; and any such script which is in the possession or under the control of the deponent must be annexed to his affidavit.

(2) An affidavit required by this Rule (together with any testamentary script) must be filed within 14 days after the entry of appearance by a defendant to the action or, if no defendant enters an appearance therein and the Court does not otherwise direct, before the action is set down for trial.

(3) Where any testamentary script required by this Rule to be filed or any part thereof is written in pencil, then, unless the Court otherwise directs, a facsimile copy of that script, or of the page or pages thereof containing the part written in pencil, must also be filed and the words which appear in pencil in the original must be underlined in red ink in the copy.

(4) Except with the leave of the Court, a party to a probate action shall not be allowed to inspect an affidavit filed under this Rule by any other party to the action, or any testamentary script annexed thereto, unless an affidavit sworn by him containing the information referred to in paragraph (1) has been filed.

(5) In this Rule, “testamentary script” means a will or draft thereof, written instructions for a will made by or at the request or under the instructions of the testator and any document purporting to be evidence of the contents, or to be a copy, of a will which is alleged to have been lost or destroyed.

Default of appearance (O. 72, r. 10).

10.—(1) Order 13 shall not apply in relation to a probate action.

(2) Where any of several defendants to a probate action fails to enter an appearance, the plaintiff, upon filing an affidavit proving due service of the writ on that defendant may, after the time limited for appearing, proceed with the action as if that defendant had entered an appearance.

(3) Where the defendant, or all the defendants, to a probate action, fails or fail to enter an appearance, and none of the persons (if any) cited under Rule 5 has entered an appearance, then, unless on the application of the plaintiff the Court orders the action to be discontinued, the plaintiff may after the time limited for appearing by the defendant apply to the Court for leave to set down the action for trial.

(4) Before making an application for the grant of leave under paragraph (3) the plaintiff must file an affidavit proving due service of the writ on the defendant and of the citation, if any.

(5) Where the Court grants leave under paragraph (3), it may order the plaintiff to file an affidavit of testamentary scripts under Rule 9.

Service of statement of claim (O. 72, r. 11).

11. The plaintiff in a probate action must, unless the Court gives leave to the contrary or a statement of claim is endorsed on the writ, serve a statement of claim on every defendant who enters an appearance in the action and must do so before the expiration of 6 weeks after entry of appearance by that defendant or of 8 days after the filing by him of an affidavit under Rule 9, whichever is the later.

Counterclaim (O. 72, r. 12).

12. Notwithstanding anything in Order 15, Rule 2 (1), a defendant to a probate action who alleges that he has any claim or is entitled to any relief or remedy in respect of any matter relating to the grant of probate of the will, or letters of administration of the estate, of the deceased person which is the subject of the action must add to his defence a counterclaim in respect of that matter.

Contents of pleadings (O. 72, r. 13).

13.—(1) Where the plaintiff in a probate action disputes the interest of a defendant he must allege in his statement of claim that he denies the interest of that defendant.

(2) In a probate action in which the interest by virtue of which a party claims to be entitled to a grant of letters of administration is disputed, the party disputing that interest must show in his pleading that if the allegations made therein are proved he would be entitled to an interest in the estate.

(3) Without prejudice to Order 18, Rule 7, any party who pleads that at the time when a will, the subject of the action, was alleged to have been executed the testator did not know and approve of its contents must specify the nature of the case on which he intends to rely, and no allegation in support of that plea which would be relevant in support of any of the following other pleas, that is to say:

(a) that the will was not duly executed;

- (b) that at the time of the execution of the will the testator was not of sound mind, memory and understanding; and
- (c) that the execution of the will was obtained by undue influence or fraud,

shall be made by that party unless that other plea is also pleaded.

Default of pleadings (O. 72, r. 14).

14.—(1) Order 19 shall not apply in relation to a probate action.

(2) Where any party to a probate action fails to serve on any other party a pleading which he is required by these Rules to serve on that other party, then, unless the Court orders the action to be discontinued, that other party may, after the expiration of the period fixed under these Rules for service of the pleading in question, apply to the Court for leave to set down the action for trial.

Discontinuance (O. 72, r. 15).

15.—(1) Order 21 shall not apply in relation to a probate action.

(2) At any stage of the proceedings in a probate action the Court may, on the application of the plaintiff or of any party to the action who has entered an appearance therein, order the action to be discontinued on such terms as to costs or otherwise as it thinks just, and may further order that a grant of probate of the will, or letters of administration of the estate, of the deceased person, as the case may be, which is the subject of the action be made to the person entitled thereto.

(3) An application for an order under this Rule may be made by summons or by notice under Order 25, Rule 7.

Compromise of action (O. 72, r. 16).

16. Where whether before or after service of the defence in a probate action the parties to the action agree to a compromise, the action may, with the leave of the Court, be set down for trial.

Case for motion (O. 72, r. 17).

17.—(1) Where an application in a probate cause or matter is to be made to the Court by motion, the applicant must —

- (a) not less than 7 clear days before the day on which the motion is to be heard, file a case for motion in the Registry, together with an affidavit verifying the statements of fact made in the case; and
- (b) not less than 5 clear days before that day, serve a copy of the case and of every affidavit in support of the motion on any person entitled to be heard in opposition to the motion.

(2) A case for motion must —

- (a) set out the proceedings already had in the cause or matter with the dates thereof;
- (b) set out the relevant facts in a summary form; and
- (c) state the relief or remedy sought by the motion.

Application to Court by summons (O. 72, r. 18).

18. Except where these Rules otherwise provide, any application to the Court in a probate cause or matter may be made by summons.

Form of judgments and orders (O. 72, r. 19).

19.—(1) Every judgment of the Court in a probate cause or matter shall be signed by the Registrar.

(2) Every order made in such a cause or matter shall be entered by an officer of the Registry in a book kept for the purpose.

Administration Pendente Lite (O. 72, r. 20).

20.—(1) An application under section 20 of the Probate and Administration Act for the grant of administration may be made to the Registrar by petition.

(2) An administrator to whom a grant is made under the said section 20 must at the time when he begins proceedings for taxation of his costs, or at such other time as the Registrar may direct, produce at the Registry an account (verified by affidavit) of the moneys and other property received or paid or otherwise dealt with by him in his capacity as such an administrator.

(3) Unless the Court otherwise directs, the account shall be referred to the Registrar for examination and Order 59, Rules 21, 22 and 25 shall with the necessary modifications, apply in relation to proceedings for the examination of the account as they apply in relation to proceedings for taxation of the administrator's costs.

(4) Except where the remuneration of the administrator has been fixed by a Judge, the Registrar shall, on the completion of the examination of the administrator's account, and taxation of his costs, assess and provide for the administrator's remuneration.

ORDER 73

PROCEEDINGS BY AND AGAINST THE GOVERNMENT

Application and interpretation (O. 73, r. 1).

1.—(1) These Rules apply to civil proceedings to which the Government is a party subject to the following Rules.

(2) In this Order —

“civil proceedings by the Government”; “civil proceedings against the Government”; and “civil proceedings by or against the Government” have the same respective meanings as in Part III of the Government Proceedings Act (Chapter 121);

“civil proceedings to which the Government is a party” has the same meaning as it has for the purposes of Part V of the Government Proceedings Act, by virtue of section 2 (3) of that Act;

“order against the Government” means any order (including an order for costs) made in any civil proceedings by or against the Government, or in connection with any arbitration to which the Government is a party, in favour of any person against the Government or against a Government department or against an officer of the Government as such;

“order” includes a judgment, decree, rule, award or declaration.

Particulars to be included in endorsement of claim (O. 73, r. 2).

2.—(1) In the case of a writ which begins civil proceedings against the Government the endorsement of claim required by Order 6, Rule 2 shall include a statement of the circumstances in which the Government’s liability is alleged to have arisen and as to the Government department and officers of the Government concerned.

(2) If in civil proceedings against the Government a defendant considers that the writ does not contain a sufficient statement as required by this Rule, he may, before the expiration of the time limited for appearing, apply to the plaintiff by notice for a further and better statement containing such information as may be specified in the notice.

(3) Where a defendant gives a notice under this Rule, the time limited for appearing shall not expire until 4 days after the defendant has notified the plaintiff in writing that the defendant is satisfied with the statement supplied in compliance with the notice or 4 days after the Court has, on the application of the plaintiff by summons served on the defendant not less than 7 days before the return day, decided that no further information as to the matters referred to in paragraph (1) is reasonably required.

Service on Government (O. 73, r. 3).

3.—(1) Order 10, Order 11 and any other provision of these Rules relating to service out of the jurisdiction shall not apply in relation to the service of any process by which civil proceedings against the Government are begun.

(2) Personal service of any document required to be served on the Government for the purpose of or in connection with any civil proceedings is not requisite; but where the proceedings are by or against the Government service on the Government must be effected —

(a) by leaving the document at the office of the person who is in accordance with section 20 of the Government Proceedings Act, to be served, or of any agent whom that person has nominated for the purpose, but in either case with a member of the staff of that person or agent; or

(b) by posting it in a prepaid envelope addressed to the person who is to be served as aforesaid or to any such agent.

(3) In relation to the service of any document required to be served on the Government for the purpose of or in connection with any civil proceedings by or against the Government, Order 62, Rules 6 and 10, shall not apply, and Order 62, Rule 8, shall apply as if the reference therein to Rules 3 and 6 (1) (a) of that Order were a reference to paragraph (2) (a) of this Rule.

Counterclaim and set-off (O. 73, r. 4).

4.—(1) Notwithstanding Order 15, Rule 2, and Order 18, Rules 17 and 18 a person may not in any proceedings by the Government make any counterclaim or plead a set-off if the proceedings are for the recovery of, or the counterclaim or set-off arises out of a right or claim to repayment in respect of, any taxes, duties or penalties.

(2) Notwithstanding Order 15, Rule 2, and Order 18, Rules 17 and 18, no counterclaim may be made, or set-off pleaded, without the leave of the Court, by the Government in proceedings against the Government, or by any person in proceedings by the Government —

(a) if the Government is sued or sues in the name of a Government department and the subject-matter of the counterclaim or set-off does not relate to that department; or

(b) if the Government is sued or sues in the name of the Attorney-General.

(3) Any application for leave under this Rule must be made by summons.

Summary judgment (O. 73, r. 5).

5.—(1) No application against the Government shall be made —

- (a) under Order 14, Rule 1 or under Order 14A, Rule 1 in any proceedings against the Government; or
- (b) under Order 14, Rule 5 or Order 14A, Rule 1 in any proceedings by the Government.

(2) Where an application is made by the Government under Order 14, Rule 1 or 5, the affidavit required in support of the application must be made by —

- (a) the solicitor acting for the Government; or
- (b) an officer duly authorised by the solicitor so acting or by the department concerned.

Summary applications to Court in certain revenue matters (O. 73, r. 6).

6.—(1) This Rule applies to applications under section 21 of the Government Proceedings Act (Chapter 121).

(2) An application to which this Rule applies must be made by originating summons.

(3) The person from whom any account or information or payment is claimed or by whom any books are required to be produced must be made defendant to the application.

(4) An originating summons under this Rule —

- (a) must be entitled in the matter or matters out of which the need for the application arises and in the matter of the Government Proceedings Act; and
- (b) must refer to the written law under which the account or information or payment or the production of books is claimed and, where information is claimed, must show (by appropriate questions or otherwise) what information is required.

(5) Upon any application to which this Rule applies, an affidavit by a duly authorised officer of the Government department concerned setting out the state of facts upon which the application is based and stating that he has reason to think that those facts exist shall be evidence of those facts; and if evidence is filed disputing any of those facts, further evidence may be filed, and the Court may either decide the matter upon the affidavits (after any cross-examination that may have been ordered) or may direct that it be decided by oral evidence in Court.

(6) An order in favour of the Government on an application to which this Rule applies shall, unless the Court otherwise determines, name a time within which each of its terms is to be complied with.

(7) Nothing in this Rule shall, in relation to any case in which the only relief claimed by the Government is the payment of money, be construed as requiring the Government to proceed by way of an application to which this Rule applies or as preventing the Government from availing itself of any other procedure which is open to it under these Rules.

Judgment in default (O. 73, r. 7).

7.—(1) Except with the leave of the Court, no judgment in default of appearance or of pleading shall be entered against the Government in civil proceedings against the Government or in third party proceedings against the Government.

(2) Except with the leave of the Court, Order 16, Rule 5 (1) (a) shall not apply in the case of third party proceedings against the Government.

(3) An application for leave under this Rule must be made by summons, and the summons must be served not less than 7 days before the return day.

Third party notice (O. 73, r. 8).

8.—(1) Notwithstanding anything in Order 16, a third party notice (including a notice issuable by virtue of Order 16, Rule 9) for service on the Government shall not be issued without the leave of the Court, and the application for the grant of such leave must be made by summons, and the summons must be served on the plaintiff and the Government.

(2) Leave to issue such a notice for service on the Government shall not be granted unless the Court is satisfied that the Government is in possession of all such information as it reasonably requires as to the circumstances in which it is alleged that the liability of the Government has arisen and as to the departments and officers of the Government concerned.

Interpleader: Application for order against Government (O. 73, r. 9).

9. No order shall be made against the Government under Order 17, Rule 5 (3), except upon an application by summons served not less than 7 days before the return day.

Discovery and interrogatories (O. 73, r. 10).

10.—(1) Order 24, Rules 1 and 2 shall not apply in civil proceedings to which the Government is a party.

(2) In any civil proceedings to which the Government is a party, any order of the Court made under the powers conferred by section 34 (1) of the Government Proceedings Act (Chapter 121) shall be construed as not requiring the disclosure of the existence of any document the existence of which it would, in the opinion of a Minister, be injurious to the public interest to disclose.

(3) Where in any such proceedings an order of the Court directs that a list of documents made in answer to an order for discovery against the Government shall be verified by affidavit, the affidavit shall be made by such officer of the Government as the Court may direct.

(4) Where in any such proceedings an order is made under section 34 of the Government Proceedings Act (Chapter 121) for interrogatories to be answered by the Government, the Court shall direct by what officer of the Government the interrogatories are to be answered.

(5) In any proceedings by the Government for the enforcement of any right for the enforcement of which proceedings by way of information might have been taken if the Government Proceedings Act had not been passed the Government may serve interrogatories or further interrogatories (except any third or subsequent set of interrogatories) under Order 26 without the leave of the Court.

Evidence (O. 73, r. 11).

11. For the avoidance of doubt it is hereby declared that any powers exercisable by the Court in regard to the taking of evidence are exercisable in proceedings by or against the Government as they are exercisable in proceedings between subjects.

Execution and satisfaction of orders (O. 73, r. 12).

12.—(1) Nothing in Orders 45 to 52 shall apply in respect of any order against the Government.

(2) An application under the proviso to section 31 (1) of the Government Proceedings Act for a direction that a separate certificate shall be issued under that subsection with respect to the costs (if any) ordered to be paid to the applicant, may be made to the Court *ex parte* by summons.

(3) Any such certificate must be in Form 177.

Attachment of debts, etc. (O. 73, r. 13).

13.—(1) No order —

(a) for the attachment of debts under Order 49; or

(b) for the appointment of a receiver under Order 30 or 51,

shall be made or have effect in respect of any money due or accruing due, or alleged to be due or accruing due, from the Government.

(2) Every application to the Court for an order under section 33 (1) of the Government Proceedings Act, restraining any person from receiving money payable to him by the Government and directing payment of the money to the applicant or some other person must be made by summons served at least 4 days before the return day on the Government and, unless the Court otherwise orders, on the person to be restrained or his solicitor;

and the application must be supported by an affidavit setting out the facts giving rise to it, and in particular identifying the particular debt from the Government in respect of which it is made.

(3) Order 49, Rules 5 and 6 shall apply in relation to such an application as is mentioned in paragraph (2) for an order restraining a person from receiving money payable to him by the Government as those Rules apply to an application under Order 49, Rule 1, for an order for the attachment of a debt owing to any person from a garnishee, except that the Court shall not have power to order execution to issue against the Government.

Applications under sections 19 and 35 of Government Proceedings Act (O. 73, r. 14).

14.—(1) Every application to the Court under section 19 (4) of the Government Proceedings Act (Chapter 121) must be made by summons.

(2) An application such as is referred to in section 35 (2) of the Government Proceedings Act, may be made by summons to the Court at any time before trial or may be made at the trial of the proceedings.

ORDER 74

DEBTORS ACT

Application and interpretation (O. 74, r. 1).

1.—(1) These Rules apply to proceedings under the Debtors Act (Chapter 73) subject to the following Rules of this Order.

(2) In this Order —

“Act” means the Debtors Act;

“judgment” includes any order for the payment of money.

ARREST OF JUDGMENT DEBTOR

Application under section 3 (O. 74, r. 2).

2. An application for an order of arrest under section 3 of the Act must be made ex parte by summons supported by an affidavit to a Judge in chambers, unless the Court otherwise orders.

Form of order of arrest (O. 74, r. 3).

3. An order for arrest under section 3 of the Act must be in Form 178.

Where judgment debtor summons issued under section 24 (O. 74, r. 3A).

3A.—(1) The issue of a judgment debtor summons under section 24 of the Act shall not prevent a judgment creditor from applying to the Court for an order of arrest under section 3 of the Act.

(2) An order for arrest under section 24 of the Act must be in Form 178A.

Conveyance and subsistence money (O. 74, r. 4).

4.—(1) Before any arrest is made under section 3 or 24 of the Act, the judgment creditor must, unless the Registrar otherwise orders, deposit in the Registry a sufficient sum of money to defray the cost of bringing the debtor before the Court, and detaining him in custody pending his appearance.

(2) Before an order of commitment made under the Act is executed, the judgment creditor must deposit in the Registry a sufficient sum of money to provide for the subsistence of the debtor for the period of imprisonment at such rate as may be prescribed by the Minister by notification in the *Gazette*.

(3) Order 46, Rules 12 and 13 shall apply with the necessary modifications to the sums of money deposited under this Rule.

ARREST OR ATTACHMENT BEFORE JUDGMENT

Applications for arrest and attachment before judgment under section 13 or 17 (O. 74, r. 5).

5.—(1) An application under section 13 or 17 of the Act must be made ex parte by summons supported by an affidavit to a Judge in chambers, unless the Court otherwise orders.

(2) An affidavit under paragraph (1) and any order made thereon must be served on the defendant as soon as possible.

Endorsement and form of order (O. 74, r. 6).

6.—(1) An order of arrest or attachment of property before judgment must state the amount of claim and costs in respect of which it is issued, and before delivery to the Sheriff, be endorsed with the plaintiff's address for service.

(2) An order under paragraph (1) must be in one of the forms in Form 179.

Plaintiff to provide defendant's subsistence (O. 74, r. 7).

7. Rule 4 shall with the necessary modifications apply to a plaintiff at whose instance a defendant is arrested or committed under Part II of the Act.

Mode of seizure before judgment (O. 74, r. 8).

8. Any property liable to seizure under Part III of the Act shall be seized in the same manner as a seizure under a writ of seizure and sale.

Deposit against costs of attachment (O. 74, r. 9).

9.—(1) Before any order of attachment of property is executed, the plaintiff must deposit in the Registry a sufficient sum of money to defray the cost of the attachment and of keeping possession of the property.

(2) Order 46, rules 12 and 13 shall apply with the necessary modifications to the sums of money deposited under this Rule.

Release on payment of claim and costs (O. 74, r. 10).

10. Where any property attached under an order of attachment is released by the Sheriff on the defendant paying to the Sheriff the sum stated in the order of attachment as the amount claimed by the plaintiff and costs as stated therein together with the costs of the execution up to the time of such payment, or under section 18 of the Act, the proper officer must give a receipt and keep the moneys in such place as directed by the Sheriff to abide by the order of the Court.

Claim by third party (O. 74, r. 11).

11. Any claim by a third party to property seized under Part III of the Act shall be dealt with in the manner relating to interpleader proceedings.

JUDGMENT DEBTOR SUMMONS

Request for judgment debtor summons (O. 74, r. 11A).

11A. Any person entitled to enforce a judgment or order for the payment of money, whether by instalments or otherwise, may apply for a judgment debtor summons under section 24 of the Act by filing a request in Form 179 signed by the applicant or his solicitor.

Where two or more judgment debtors (O. 74, r. 11B).

11B. Where a judgment has been given or an order made against two or more persons, the person entitled to enforce the judgment or order may require a judgment debtor summons to be issued against each or any of the persons liable under the judgment or order.

Where judgment or order against a firm (O. 74, r. 11C).

11C.—(1) Where a judgment is given or order made against a firm, a judgment debtor summons may be issued against any person against whom execution may be issued to enforce such judgment or order under Order 77.

(2) Where the person entitled to enforce such judgment or order desires to issue a judgment debtor summons against any other person, he must apply for leave of the court *ex parte* by summons in Form 179B supported by affidavit in Form 179C.

(3) Where an order is made under paragraph (2), a copy of the affidavit must be served with the judgment debtor summons.

(4) If the person alleged to be liable does not appear on the day fixed for the hearing of the judgment debtor summons, he shall be deemed to admit his liability to pay the amount due, but if he appears and denies his liability the Court may determine the question of liability on the evidence then before it or may order the issue of liability to be tried in such manner as it thinks fit.

Form of judgment debtor summons (O. 74, r. 11D).

11D.—(1) A judgment debtor summons must be in one of the forms in Form 179D.

(2) Unless the Court otherwise orders, a judgment debtor summons must be served personally on the person summoned at least 7 days before the day fixed for the hearing thereof.

JUDGMENT NOTICE

Application for judgment notice (O. 74, r. 12)

12. Every application for a notice (referred to in Rules 13 and 14 as a judgment notice) under section 6 (3) or 24 (7) of the Act must be by praecipe in Form 180 verified by the oath of the applicant.

Judgment notice (O. 74, r. 13).

13. A judgment notice must be in Form 181 and must be served personally, not less than 4 clear days before the day appointed for the debtor's attendance unless the Court otherwise orders.

Hearing of judgment notice (O. 74, r. 14).

14.—(1) On the hearing of a judgment notice the Court may make an order of commitment or vary the instalment order as it thinks just.

(2) If an order of commitment is made, the Court may direct the execution of such order to be suspended to enable the debtor to pay the amount in respect of which the order is made.

COMMITMENT

Orders of commitment (O. 74, r. 15).

15. An order of commitment under section 6 (1) or 15 or 24 (8) of the Act must be in Form 182.

Payment by debtor (O. 74, r. 16).

16. Where an order of commitment for non-payment of money is made the debtor may, at any time, either to the Sheriff or, if he is in prison, to the officer in charge of the prison, pay the amount stated in the order and obtain his discharge.

Certificate of satisfaction (O. 74, r. 17).

17.—(1) Where any judgment debt, in respect of which a debtor is imprisoned under the Act, is satisfied by payment or otherwise, the judgment creditor must lodge with the Registrar a certificate of satisfaction signed by him in Form 183.

(2) If the judgment creditor makes default in lodging such certificate, the debtor, or any person on his behalf, may apply to the Court for an order for his discharge, and the Court in making such order may direct that the costs of the application be paid by the judgment creditor.

(3) An order under this Rule must be in Form 184.

MISCELLANEOUS**Security, how given (O. 74, r. 18).**

18.—(1) Where an order is made requiring a defendant to give security under the Act, the security shall be given in such manner, at such time, and on such terms (if any) as the Court may direct.

(2) When security has been given as ordered, the defendant, if he is in custody must be released.

Discharge of surety (O. 74, r. 19).

19. Whenever the Court discharges a surety under section 14 of the Act, it may at the same time order the defendant to be taken into custody and committed to prison for a term which may extend to 6 weeks unless he sooner gives fresh security.

Control of the Court (O. 74, r. 20).

20. The money deposited, if any, and the security and all proceedings thereon shall be subject to the order and control of the Court.

Bankruptcy or administration order against debtor (O. 74, r. 21).

21. Where at the hearing of any proceedings under the Act the debtor satisfies the Court that a bankruptcy order under the Bankruptcy Act 1995 (Act 15 of 1995) has been made against him and that the debt was provable in the bankruptcy or in the administration, no order shall be made:

Provided that where an order of commitment has been made, the order if not executed shall be recalled and cancelled, and if the debtor is in prison, he shall be discharged.

Date of order of arrest (O. 74, r. 22).

22. Any order of commitment or arrest of a judgment debtor under the Act shall bear the date of the day on which it was made, and shall continue in force for one year from and including such date and no longer, but it may be renewed subject to the conditions and in the manner prescribed for the renewal of writs of execution.

Order for discharge under section 25 (O. 74, r. 22A).

22A. An order for the discharge of a debtor under section 25 of the Act shall be in Form 184A.

Costs (O. 74, r. 23).

23. Unless in any case it is otherwise ordered, the costs of and incidental to orders for arrest, commitment and attachment under the Act, and any amount spent by the plaintiff under Rules 5 and 10, shall be the plaintiff's costs in the cause.

ORDER 75

DISTRESS ACT

Application and interpretation (O. 75, r. 1).

1.—(1) These Rules apply to proceedings under the Distress Act (Chapter 84) subject to the following Rules.

(2) In this Order —

“Act” means the Distress Act;

“landlord” and “tenant” have the respective meanings assigned to them by section 2 of the Act.

Application for writ of distress (O. 75, r. 2).

2.—(1) Every application for a writ of distress must be made ex parte by originating summons supported by affidavit in Form 185.

(2) Where the application is made by a duly authorised agent of the landlord, he must produce his written authority in Form 186.

Writ of distress (O. 75, r. 3).

3. A writ of distress must be in Form 187.

Notice of seizure (O. 75, r. 4).

4. A notice of seizure under section 9 of the Act must be in Form 94.

Applications under section 10 or 16 (O. 75, r. 5).

5.—(1) An application under section 10 or 16 of the Act for the discharge or suspension of the writ or for the release of any part of the property distrained shall be made by summons within 7 days of the seizure, supported by affidavit stating the grounds on which the application is made.

(2) A copy of the application and the affidavit must be served on the landlord or his agent, as the case may be, before the hearing thereof.

Sale by public auction (O. 75, r. 6).

6. Order 46, Rules 23 and 24 shall apply to all sales under the Act.

Return of property unsold (O. 75, r. 7).

7.—(1) As soon as the amount recoverable under the writ of distress has been realised by the sale of any of the movable property seized, the balance of the property seized must be released and, if it had been removed, returned to the premises at which the seizure was made.

(2) The amount recoverable under the writ shall for the purposes of this Rule be deemed to include the rent in respect of which the writ was issued, the expenses of the sale and of execution of the writ, the Court fees and all costs due to the landlord.

Procedure in cases under section 20 (O. 75, r. 8).

8.—(1) In such cases as are provided for in section 20 of the Act, the Sheriff must, unless he is already in possession under a writ of execution, deliver a copy of the writ of distress to the officer in possession under the writ of execution, and inform him by notice of the amount due to the landlord for the last 6 months' rent, or any less period for which rent is due, and the amount of all fees and costs due in respect of the issue and execution of the writ of distress.

(2) An application under section 20 (3) of the Act to discharge or suspend the writ of distress shall be made within the time and in the manner prescribed by Rule 5.

Officer in possession to notify Sheriff of intended release (O. 75, r. 9).

9. Where the property seized under a writ of execution is to be released, the officer in possession under such writ must, before giving up possession, notify the Sheriff of his intention to do so.

Application under section 21 (O. 75, r. 10).

10.—(1) An application by the Sheriff under section 21 (1) of the Act must be supported by the affidavit of a person having knowledge of the facts stating the circumstances of the alleged removal.

(2) An authority to the Sheriff under this section must be in Form 188.

Application under section 22 (2) (O. 75, r. 11).

11. An application under section 22 (2) of the Act must be supported by affidavit, and notice of the application must be served on the landlord or his agent, as the case may be, at his address for service at least two clear days before the hearing thereof.

Address for service (O. 75, r. 12).

12. Any person making any application to a Court under this Act must give an address for service.

Suspension of execution of writ (O. 75, r. 13).

13. Whenever the execution of a writ of distress is ordered to be suspended, unless the Court otherwise orders, any property already seized thereunder shall remain under seizure and in the possession of the Sheriff or other officer in possession; but the sale thereof under the writ of distress shall be postponed till the expiration of the period for which the execution of the writ is suspended.

Costs (O. 75, r. 14).

14. The costs of all proceedings taken under the Act shall be at the discretion of the Court.

ORDER 76**DISABILITY****Interpretation (O. 76, r. 1).**

1. In this Order —

“Act” means the Mental Disorders and Treatment Act (Chapter 178);

“patient” means a person incapable of managing himself or his affairs;

“person under disability” means a person who is an infant or a patient.

Person under disability must sue, etc., by next friend or guardian *ad litem* (O. 76, r. 2).

2.—(1) A person under disability may not bring, or make a claim in, any proceedings except by his next friend and may not defend, make a counterclaim or intervene in any proceedings, or appear in any proceedings under a judgment or order notice of which has been served on him, except by his guardian *ad litem*.

(2) Subject to these Rules, anything which in the ordinary conduct of any proceedings is required or authorised by a provision of these Rules to be done by a party to the proceedings shall or may, if the party is a person under disability, be done by his next friend or guardian *ad litem*.

(3) A next friend or guardian *ad litem* of a person under disability must act by a solicitor.

Appointment of next friend or guardian *ad litem* (O. 76, r. 3).

3.—(1) This Rule shall not apply in relation to a probate action.

(2) Except as provided by paragraph (4) or (5) or by Rule 6, an order appointing a person next friend or guardian *ad litem* of a person under disability is not necessary.

(3) Where a person is authorised under the Act to conduct legal proceedings in the name of a patient or on his behalf, that person shall be entitled to be next friend or guardian *ad litem*, as the case may be, of the patient in any proceedings to which his authority extends unless, in a case to which paragraph (4) or (5) or Rule 6 applies, some other person is appointed by the Court under that paragraph or Rule to be next friend or guardian *ad litem*, as the case may be, of the patient in those proceedings.

(4) Where a person has been or is next friend or guardian *ad litem* of a person under disability in any proceedings, no other person shall be entitled to act as such friend or guardian, as the case may be, of the person under disability in those proceedings unless the Court makes an order appointing him such friend or guardian in substitution for the person previously acting in that capacity.

(5) Where, after any proceedings have been begun, a party to the proceedings becomes a patient, an application must be made to the Court for the appointment of a person to be next friend or guardian *ad litem*, as the case may be, of that party.

(6) Except where the next friend or guardian *ad litem*, as the case may be, of a person under disability has been appointed by the Court —

- (a) the name of any person shall not be used in a cause or matter as next friend of a person under disability;
- (b) an appearance shall not be entered in a cause or matter for a person under disability; and

(c) a person under disability shall not be entitled to appear by his guardian *ad litem* on the hearing of a petition, summons or motion which, or notice of which, has been served on him, until the documents listed in paragraph (7) have been filed in the Registry.

(7) The documents referred to in paragraph (6) are the following:

- (a) a written consent in Form 189 to be next friend or guardian *ad litem*, as the case may be, of the person under disability in the cause or matter in question given by the person proposing to be such friend or guardian;
- (b) where the person proposing to be such friend or guardian of the person under disability, being a patient, is authorised under the Act to conduct the proceedings in the cause or matter in question in the name of the patient or on his behalf, an office copy, sealed with the seal of the Court, of the order or other authorisation made or given under the Act by virtue of which he is so authorised; and
- (c) except where the person proposing to be such friend or guardian of the person under disability, being a patient, is authorised as mentioned in sub-paragraph (b), a certificate in Form 190 made by the solicitor for the person under disability certifying —
 - (i) that he knows or believes, as the case may be, that the person to whom the certificate relates is an infant or a patient, giving (in the case of a patient) the grounds of his knowledge or belief; and
 - (ii) where the person under disability is a patient, that there is no person authorised as aforesaid; and
 - (iii) that the person so named has no interest in the cause or matter in question adverse to that of the person under disability.

Probate action: Appointment of next friend or guardian *ad litem*
(O. 76, r. 4).

4.—(1) This Rule applies in relation to a probate action to which a person under disability is a party or in which he intervenes or is cited under Order 72, Rule 5.

(2) Where the person under disability is a patient and a person is authorised under the Act to conduct legal proceedings in the name of the patient or on his behalf, the person so authorised shall be entitled to be next friend of the patient in any probate action to which his authority extends.

(3) Where the person under disability is an infant who is not a patient and he has a statutory guardian or a testamentary guardian who is qualified to be his next friend by virtue of paragraph (8), that guardian shall be entitled to be next friend of the infant in a probate action.

(4) Where the person under disability is an infant who has attained the age of 16 years and is not a patient, and there is no person qualified by virtue of paragraph (3) to be his next friend, the infant may appoint as his next friend a person who is qualified to be such friend by virtue of paragraph (8) and who is one of his next-of-kin or, where the infant is a married woman, one of her next-of-kin or her husband.

(5) Where an infant appoints a person under paragraph (4) to be his next friend in a probate action, the person so appointed may be next friend of any other infant in that action provided that the other infant is under 16 years of age, is not a patient and his interest in the action is the same as that of the infant making the appointment.

(6) Where there is no person qualified by virtue of paragraph (2) or (3), as the case may be, to be next friend of a person under disability in a probate action and that person is either not entitled under paragraph (4) to appoint a person to be his next friend or, being so entitled, makes no appointment thereunder, the next friend of the person under disability in the action shall be such one of his next-of-kin or other person as the Court may appoint.

(7) An application under paragraph (6) for the appointment of a next friend of a person under disability may be made *ex parte* by summons and must be supported by an affidavit showing —

- (a) that there is no person entitled to be such friend by virtue of paragraph (2) or (3), or appointed as such under paragraph (4), as the circumstances require;
- (b) if such be the case, that the person proposed as next friend is a next-of-kin of the person under disability; and
- (c) that the person proposed as next friend is willing and a proper person to act as such and has no interest in the action adverse to that of the person under disability.

(8) A person is qualified to be next friend of a person under disability if he is competent and willing to act as such and has no interest in the action in question adverse to that of the person under disability.

(9) Paragraphs (2) to (8) shall apply for the purpose of determining who shall be guardian *ad litem* of a person under disability in a probate action as they apply for the purpose of determining who shall be next friend of such a person and references in those paragraphs to a next friend shall be construed accordingly:

Provided that a person authorised as mentioned in paragraph (2) shall not be entitled by virtue of that paragraph to be guardian *ad litem* of a patient in a probate action if in a case to which Rule 6 applies some other person is appointed by the Court under that Rule to be guardian *ad litem* of the patient in that action.

Probate action: Further provisions (O. 76, r. 5).

5.—(1) Where a party to a probate action is a person under disability, then, unless the next friend or guardian *ad litem*, as the case may be, of that person has been appointed such friend or guardian by the Court, the writ beginning the action (where that person is a plaintiff) shall not be issued, and an appearance shall not be entered for him in the action (where he is a defendant, intervener, or person cited under Order 72, Rule 5) without the consent of the Registrar.

(2) On the making of an application for a consent under paragraph (1) in relation to an infant who is not a patient, there must be produced to the Registrar —

- (a) where the next friend or guardian *ad litem* of the infant is his statutory guardian or testamentary guardian, an affidavit deposing to the guardianship and age of the infant and showing that the guardian has no interest in the action adverse to that of the infant;
- (b) where the next friend or guardian *ad litem* of the infant is a person appointed under Rule 4 (4), or under Rule 4 (4) as applied by Rule 4 (9) —
 - (i) the appointment;
 - (ii) a written consent to act as next friend or guardian *ad litem*, as the case may be, given by the person so appointed; and
 - (iii) an affidavit deposing to the age of the infant and containing the evidence which would be required by Rule 4 (7), or by Rule 4 (7) as so applied, to be contained in an affidavit in support of an application for the appointment of that person as next friend or guardian *ad litem*, as the case may be, by the Court.

(3) On the making of an application for consent under paragraph (1) in relation to a patient, there must be produced to the Registrar an office copy, sealed with the seal of the Court, of the order or other authorisation made or given under the Act by virtue of which the next friend or guardian *ad litem* of the patient, as the case may be, is authorised to conduct legal proceedings in the probate action in question in the name of the patient or on his behalf.

Appointment of guardian where person under disability does not appear (O. 76, r. 6).

6.—(1) Where —

- (a) in an action against a person under disability begun by writ, or by originating summons to which an appearance is required to be entered, no appearance is entered in the action for that person; or
- (b) the defendant to an action serves a defence and counterclaim on a person under disability who is not already a party to the action, and no appearance is entered for that person,

an application for the appointment by the Court of a guardian *ad litem* of that person must be made by the plaintiff or defendant, as the case may be, after the time limited (as respects that person) for appearing and before proceeding further with the action or counterclaim.

(2) Where a party to an action has served on a person under disability who is not already a party to the action a third party notice within the meaning of Order 16 and no appearance is entered for that person to that notice, an application for the appointment by the Court of a guardian *ad litem* of that person must be made by that party after the time limited (as respects that person) for appearing and before proceeding further with the third party proceedings.

(3) Where in any proceedings against a person under disability begun by petition or motion, or by originating summons to which no appearance need be entered, that person does not appear by a guardian *ad litem*, at the hearing of the petition, motion, or summons, as the case may be, the Court hearing it may appoint a guardian *ad litem* of that person in the proceedings or direct that an application be made by the petitioner or applicant, as the case may be, for the appointment of such a guardian.

(4) At any stage in the proceedings under any judgment or order, notice of which has been served on a person under disability, the Court may, if no appearance is entered for that person, appoint a guardian *ad litem* of that person in the proceedings or direct that an application be made for the appointment of such a guardian.

(5) An application under paragraph (1) or (2) must be supported by evidence proving —

- (a) that the person to whom the application relates is a person under disability;
- (b) that the person proposed as guardian *ad litem* is willing and a proper person to act as such and has no interest in the proceedings adverse to that of the person under disability;

(c) that the writ, originating summons, defence and counterclaim or third party notice, as the case may be, was duly served on the person under disability; and

(d) subject to paragraph (6), that notice of the application was, after the expiration of the time limited for appearing and at least 7 days before the day named in the notice for hearing of the application, so served on him.

(6) If the Court so directs, notice of an application under paragraph (1) or (2) need not be served on a person under disability.

(7) An application for the appointment of a guardian *ad litem* made in compliance with a direction of the Court given under paragraph (3) or (4) must be supported by evidence proving the matters referred to in paragraph (5) (b).

Application to discharge or vary certain orders (O. 76, r. 7).

7. An application to the Court on behalf of a person under disability served with an order made *ex parte* under Order 15, Rule 7, for the discharge or variation of the order must be made —

(a) if a next friend or guardian *ad litem* is acting for that person in the cause or matter in which the order is made, within 14 days after the service of the order on that person;

(b) if there is no next friend or guardian *ad litem* acting for that person in that cause or matter, within 14 days after the appointment of such a friend or guardian to act for him.

Admission not to be implied from pleading of person under disability (O. 76, r. 8).

8. Notwithstanding anything in Order 18, Rule 13 (1), a person under disability shall not be taken to admit the truth of any allegation of fact made in the pleading of the opposite party by reason only that he has not traversed it in his pleadings.

Discovery and interrogatories (O. 76, r. 9).

9. Orders 24, 26 and 26A shall apply to a person under disability and to his next friend or guardian *ad litem*.

Compromise, etc., by person under disability (O. 76, r. 10).

10. Where in any proceedings money is claimed by or on behalf of a person under disability, no settlement, compromise or payment and no acceptance of money paid into Court, whenever entered into or made, shall so far as it relates to that person's claim be valid without the approval of the Court.

Approval of settlement (O. 76, r. 11).

11.—(1) Where, before proceedings in which a claim for money is made by or on behalf of a person under disability (whether alone or in conjunction with any other person) are begun, an agreement is reached for the settlement of the claim, and it is desired to obtain the Court's approval to the settlement, then notwithstanding anything in Order 5, Rule 2, the claim may be made in proceedings begun by originating summons and in the summons an application may also be made for —

- (a) the approval of the Court to the settlement and such orders or directions as may be necessary to give effect to it or as may be necessary or expedient under Rule 12; or
- (b) alternatively, directions as to the further prosecution of the claim.

(2) Where in proceedings under this Rule a claim is made under section 12 of the Civil Law Act (Chapter 43), the originating summons must include the particulars required under the Act.

(3) No appearance need be entered to an originating summons under this Rule.

(4) In this Rule, “settlement” includes a compromise.

Control of money recovered by person under disability (O. 76, r. 12).

12.—(1) Where in any proceedings —

- (a) money is recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, a person under disability; or
- (b) money paid into Court is accepted by or on behalf of a plaintiff who is a person under disability, the money shall be dealt with in accordance with directions given by the Court.

(2) Directions given under this Rule may provide that the money shall, as to the whole or any part thereof, be paid into Court and invested or otherwise dealt with.

(3) Without prejudice to paragraphs (1) and (2), directions given under this Rule may include any general or special directions that the Court thinks fit to give and, in particular, directions as to how the money is to be applied or dealt with and as to any payment to be made, either directly or out of the amount paid into Court, to the plaintiff, or to the next friend in respect of moneys paid or expenses incurred for or on behalf or for the benefit of the person under disability or for his maintenance or otherwise for his benefit or to the plaintiff's solicitor in respect of costs.

(4) Where in pursuance of directions given under this Rule money is paid into Court to be invested or otherwise dealt with, the money (including any interest thereon) shall not be paid out, nor shall any securities in which

the money is invested, or the dividends thereon, be sold, transferred or paid out of Court, except in accordance with an order of the Court.

(5) Paragraphs (1) to (4) shall apply in relation to a counterclaim by or on behalf of a person under disability, and a claim made by or on behalf of such a person in an action by any other person for relief under section 137 of the Merchant Shipping Act 1995 (Act 19 of 1995), as if for references to a plaintiff and a next friend there were substituted references to a defendant and to a guardian *ad litem*, respectively.

Proceedings under Civil Law Act: Apportionment by Court (O. 76, r. 13).

13.—(1) Where a single sum of money is paid into Court under Order 22, Rule 1, in satisfaction of causes of action arising under the Civil Law Act and that sum is accepted, the money shall be apportioned between the different causes of action by the Court either when giving directions for dealing with it under Rule 12 (if that Rule applies) or when authorising its payment out of Court.

(2) Where, in an action in which a claim under the Civil Law Act, is made by or on behalf of more than one person, a sum in respect of damages is adjudged or ordered or agreed to be paid in satisfaction of the claim, or a sum of money paid into Court under Order 22, Rule 1, is accepted in satisfaction of the cause of action under the Civil Law Act, it shall be apportioned between those persons by the Court.

The reference in this paragraph to a sum of money paid into Court shall be construed as including a reference to part of a sum so paid, being the part apportioned by the Court under paragraph (1) to the cause of action under the Civil Law Act.

Service of certain documents on person under disability (O. 76, r. 14).

14.—(1) Where in any proceedings a document is required to be served personally on any person and that person is a person under disability, this Rule shall apply.

(2) Subject to this Rule and to Order 24, Rule 16 (3), and Order 26, Rule 7 (3), the document must be served —

- (a) in the case of an infant who is not also a patient, on his father or guardian or, if he has no father or guardian, on the person with whom he resides or in whose care he is;
- (b) in the case of a patient, on the person (if any) who is authorised under the Act to conduct in the name of the patient or on his behalf the proceedings in connection with which the document is to be served or, if there is no person so authorised, on the person with whom he resides or in whose care he is;

and must be served in the manner required by these Rules with respect to the document in question.

(3) Notwithstanding anything in paragraph (2), the Court may order that a document which has been, or is to be, served on the person under disability or on a person other than a person mentioned in that paragraph shall be deemed to be duly served on the person under disability.

(4) A judgment or order requiring a person to do, or refrain from doing any act, a notice of motion or summons for the committal of any person, and a writ of subpoena against any person, must, if that person is a person under disability, be served personally on him unless the Court otherwise orders.

This paragraph shall not apply to an order for interrogatories or for discovery or inspection of documents.

ORDER 77

PARTNERS

Actions by and against firms within jurisdiction (O. 77, r. 1).

1. Subject to the provisions of any written law, any two or more persons claiming to be entitled, or alleged to be liable, as partners in respect of a cause of action and carrying on business within the jurisdiction may sue, or be sued, in the name of the firm (if any) of which they were partners at the time when the cause of action accrued.

Disclosure of partners' names (O. 77, r. 2).

2.—(1) Any defendant to an action brought by partners in the name of a firm may serve on the plaintiffs or their solicitor a notice requiring them or him forthwith to furnish the defendant with a written statement of the names and places of residence of all the persons who were partners in the firm at the time when the cause of action accrued; and if the notice is not complied with the Court may order in Form 191 the plaintiffs or their solicitor to furnish the defendant with such a statement and to verify it on oath or otherwise as may be specified in the order, or may order that further proceedings in the action be stayed on such terms as the Court may direct.

(2) When the names of the partners have been declared in compliance with a notice or order given or made under paragraph (1), the proceedings shall continue in the name of the firm but with the same consequences as would have ensued if the persons whose names have been so declared had been named as plaintiffs in the writ.

(3) Paragraph (1) shall have effect in relation to an action brought against partners in the name of a firm as it has effect in relation to an action brought by partners in the name of a firm but with the substitution, for references to the defendant and the plaintiffs, of references to the plaintiff and the defendants respectively, and with the omission of the words "or may order" to the end.

Service of writ (O. 77, r. 3).

3.—(1) Where by virtue of Rule 1 partners are sued in the name of a firm, the writ may, except in the case mentioned in paragraph (2), be served —

(a) on any one or more of the partners; or

(b) at the principal place of business of the partnership within the jurisdiction, on any person having at the time of service the control or management of the partnership business there,

and where service of the writ is effected in accordance with this paragraph, the writ shall be deemed to have been duly served on the firm, whether or not any member of the firm is out of the jurisdiction.

(2) Where a partnership has, to the knowledge of the plaintiff, been dissolved before an action against the firm is begun, the writ by which the action is begun must be served on every person within the jurisdiction sought to be made liable in the action.

(3) Every person on whom a writ is served under paragraph (1) must at the time of service be given a written notice in Form 192 stating whether he is served as a partner or as a person having the control or management of the partnership business or both as a partner and as such a person; and any person on whom a writ is so served but to whom no such notice is given shall be deemed to be served as a partner.

Entry of appearance in an action against firm (O. 77, r. 4).

4.—(1) Where persons are sued as partners in the name of their firm, appearance may not be entered in the name of the firm but only by the partners thereof in their own names, but the action shall nevertheless continue in the name of the firm.

(2) Where in an action against a firm the writ by which the action is begun is served on a person as a partner, that person, if he denies that he was a partner or liable as such at any material time, may enter an appearance in the action and state in the memorandum of appearance that he does so as a person served as a partner in the defendant firm but who denies that he was a partner at any material time.

An appearance entered in accordance with this paragraph shall, until it is set aside, be treated as an appearance for the defendant firm.

(3) Where an appearance has been entered for a defendant in accordance with paragraph (2) then —

(a) the plaintiff may either apply to the Court to set it aside on the ground that the defendant was a partner or liable as such at a material time or may leave that question to be determined at a later stage of the proceedings;

- (b) the defendant may either apply to the Court to set aside the service of the writ on him on the ground that he was not a partner or liable as such at a material time or may at the proper time serve a defence on the plaintiff denying in respect of the plaintiff's claim either his liability as a partner or the liability of the defendant firm or both.

(4) The Court may at any stage of the proceedings in an action in which a defendant has entered an appearance in accordance with paragraph (2), on the application of the plaintiff or of that defendant order that any question as to the liability of that defendant or as to the liability of the defendant firm be tried in such manner and at such time as the Court directs.

(5) Where in an action against a firm the writ by which the action is begun is served on a person as a person having the control or management of the partnership business, that person may not enter an appearance in the action unless he is a member of the firm sued.

Enforcing judgment or order against firm (O. 77, r. 5).

5.—(1) Where a judgment is given or order made against a firm, execution to enforce the judgment or order may, subject to Rule 6, issue against any property of the firm within the jurisdiction.

(2) Where a judgment is given or order made against a firm, execution to enforce the judgment or order may, subject to Rule 6 and to paragraph (3), issue against any person who —

- (a) entered an appearance in the action as a partner;
- (b) having been served as a partner with the writ of summons, failed to enter an appearance in the action;
- (c) admitted in his pleading that he is a partner; or
- (d) was adjudged to be a partner.

(3) Execution to enforce a judgment or order given or made against a firm may not issue against a member of the firm who was out of the jurisdiction when the writ of summons was issued unless he —

- (a) entered an appearance in the action as a partner;
- (b) was served within the jurisdiction with the writ as a partner; or
- (c) was, with the leave of the Court given under Order 11, served out of the jurisdiction with the writ, as a partner;

and, except as provided by paragraph (1) and by the foregoing provisions of this paragraph, a judgment or order given or made against a firm shall not render liable, release or otherwise affect a member of the firm who was out of the jurisdiction when the writ was issued.

(4) Where a party who has obtained a judgment or order against a firm claims that a person is liable to satisfy the judgment or order as being a member of the firm, and paragraphs (1), (2) and (3) do not apply in relation to that person, that party may apply to the Court for leave to issue execution against that person, the application to be made by summons which must be served personally on that person.

(5) Where the person against whom an application under paragraph (4) is made does not dispute his liability, the Court hearing the application may, subject to paragraph (3), give leave to issue execution against that person and, where that person disputes his liability, the Court may order that the liability of that person be tried and determined in any manner in which any issue or question in an action may be tried and determined.

Enforcing judgment or order in action between partners, etc (O. 77, r. 6).

6.—(1) Execution to enforce a judgment or order given or made in —

- (a) an action by or against a firm in the name of the firm, against or by a member of the firm; or
- (b) an action by a firm in the name of the firm against a firm in the name of the firm where those firms have one or more members in common,

shall not issue except with the leave of the Court.

(2) The Court hearing an application under this Rule may give such directions including directions as to the taking of accounts and the making of inquiries as may be just.

Attachment of debts owed by firm (O. 77, r. 7).

7.—(1) An order may be made under Order 49, Rule 1, in relation to debts due or accruing due from a firm carrying on business within the jurisdiction notwithstanding that one or more members of the firm is resident out of the jurisdiction.

(2) An order to show cause under the said Rule 1 relating to such debts must be served on a member of the firm within the jurisdiction or on some other person having the control or management of the partnership business.

(3) Where an order made under the said Rule 1 requires a firm to appear before the Court, an appearance by a member of the firm constitutes a sufficient compliance with the Order.

Actions begun by originating summons (O. 77, r. 8).

8. Rules 2 to 7 shall, with the necessary modifications, apply in relation to an action by or against partners in the name of their firm begun by originating summons as they apply in relation to such an action begun by writ.

Application to person carrying on business in another name (O. 77, r. 9).

9. An individual carrying on business within the jurisdiction in a name or style other than his own name may be sued in that name or style as if it were the name of a firm, and Rules 2 to 8 shall, so far as applicable, apply as if he were a partner and the name in which he carries on business were the name of his firm.

Applications for orders charging partner's interest in property, etc. (O. 77, r. 10).

10.—(1) Every application to the Court by a judgment creditor of a partner for an order under section 23 of the Partnership Act (Chapter 391), and every application to the Court by a partner of the judgment debtor made in consequence of the first-mentioned application must be made by summons.

(2) The Registrar may exercise the powers conferred on a Judge by the said section 23.

(3) Every summons issued by a judgment creditor under this Rule, and every order made on such a summons, must be served on the judgment debtor and on such of his partners as are within the jurisdiction.

(4) Every summons issued by a partner of a judgment debtor under this Rule, and every order made on such a summons, must be served —

- (a) on the judgment creditor;
- (b) on the judgment debtor; and
- (c) on such of the other partners of the judgment debtor as do not join in the application and are within the jurisdiction.

(5) A summons or order served in accordance with this Rule on some only of the partners of a partnership shall be deemed to have been served on all the partners of that partnership.

ORDER 78**DEFAMATION ACTIONS****Application (O. 78, r. 1).**

1. These Rules apply to actions for libel or slander subject to the following Rules.

Endorsement of claim in libel action (O. 78, r. 2).

2. Before a writ in an action for libel is issued it must be endorsed with a statement giving sufficient particulars of the publications in respect of which the action is brought to enable them to be identified.

Obligation to give particulars (O. 78, r. 3).

3.—(1) Where in an action for libel or slander the plaintiff alleges that the words or matters complained of were used in a defamatory sense other than their ordinary meaning, he must give particulars of the facts and matters on which he relies in respect of such sense.

(2) Where in an action for libel or slander the defendant alleges that, in so far as the words complained of consist of statements of fact, they are true in substance and in fact, and in so far as they consist of expressions of opinion, they are fair comment on a matter of public interest, or pleads to the like effect, he must give particulars stating which of the words complained of he alleges are statements of fact and of the facts and matters he relies on in support of the allegation that the words are true.

(3) Where in an action for libel or slander the plaintiff alleges that the defendant maliciously published the words or matters complained of, he need not in his statement of claim give particulars of the facts on which he relies in support of the allegation of malice, but if the defendant pleads that any of those words or matters are fair comment on a matter of public interest or were published upon a privileged occasion and the plaintiff intends to allege that the defendant was actuated by express malice, he must serve a reply giving particulars of the facts and matters from which the malice is to be inferred.

(3A) Without prejudice to Order 18, rule 12, the plaintiff must give full particulars in the statement of claim of the facts and matters on which he relies in support of his claim for damages, including details of any conduct by the defendant which it is alleged has increased the loss suffered and of any loss which is peculiar to the plaintiff's own circumstances.

(4) This Rule shall apply in relation to a counterclaim for libel or slander as if the party making the counterclaim were the plaintiff and the party against whom it is made the defendant.

Provisions as to payment into Court (O. 78, r. 4).

4.—(1) Where in an action for libel or slander against several defendants sued jointly the plaintiff, in accordance with Order 22, Rule 3 (1), accepts money paid into Court by any of those defendants in satisfaction of his cause of action against that defendant, then, notwithstanding anything in Rule 3 (4) of that Order, the action shall be stayed as against that defendant only, but —

- (a) the sum recoverable under any judgment given in the plaintiff's favour against any other defendant in the action by way of damages shall not exceed the amount (if any) by which the amount of the damages exceeds the amount paid into Court by the defendant as against whom the action has been stayed; and

- (b) the plaintiff shall not be entitled to his costs of the action against the other defendant after the date of the payment into Court unless either the amount of the damages awarded to him is greater than the amount paid into Court and accepted by him or the Judge is of the opinion that there was reasonable ground for him to proceed with the action against the other defendant.

(2) Where in an action for libel a party pleads the defence for which section 10 (2) of the Defamation Act (Chapter 75) provides, Order 22, Rule 7 shall not apply in relation to that pleading.

Statement in open Court (O. 78, r. 5).

5.—(1) Where a party accepts money paid into Court in satisfaction of a cause of action for libel or slander, the plaintiff or defendant, as the case may be, may apply to a Judge in Chambers by summons for leave to make in open Court a statement in terms approved by the Judge.

(2) Where a party to an action for libel or slander which is settled before trial desires to make a statement in open Court, an application must be made to the Court for an order that the action be set down for trial, and before the date fixed for the trial the statement must be submitted for the approval of the Judge before whom it is to be made.

Interrogatories not allowed in certain cases (O. 78, r. 6).

6. In an action for libel or slander where the defendant pleads that the words or matters complained of are fair comment on a matter of public interest or were published on a privileged occasion, no interrogatories as to the defendant's sources of information or grounds of belief shall be allowed.

Evidence in mitigation of damages (O. 78, r. 7).

7. In an action for libel or slander, in which the defendant does not by his defence assert the truth of the statement complained of, the defendant shall not be entitled on the trial to give evidence in chief, with a view to mitigation of damages, as to the circumstances under which the libel or slander was published, or as to the character of the plaintiff, without the leave of the Judge, unless 7 days at least before the trial he furnishes particulars to the plaintiff of the matters as to which he intends to give evidence.

Fulfilment of offer of amends under section 7 of Defamation Act (O. 78, r. 8).

8.—(1) An application to the Court under section 7 of the Defamation Act, to determine any question as to the steps to be taken in fulfilment of an offer of amends made under that section must, unless the application is made in the course of proceedings for libel or slander in respect of the

publication to which the offer relates, be made in Chambers, but only a Judge may determine such question.

(2) No appearance need be entered to an originating summons by which such an application is made.

ORDER 79

MONEYLENDERS' ACTIONS

Application and interpretation (O. 79, r. 1).

1.—(1) These Rules apply to a moneylender's action subject to the following Rules.

(2) In these Rules —

“moneylender” has the meaning assigned to it by section 2 of the Moneylenders Act (Chapter 188);

“moneylender's action” means an action for the recovery of money lent by a moneylender or for the enforcement of any agreement or security relating to money so lent, being an action brought by the lender or an assignee.

Endorsement of writ (O. 79, r. 2).

2. Before a writ beginning a moneylender's action is issued it must be endorsed with a statement that at the time of the making of a loan or contract or the giving of the security in question the lender was licensed as a moneylender.

Particulars to be included in statement of claim (O. 79, r. 3).

3. Every statement of claim in a moneylender's action (whether endorsed on the writ or not) must state —

- (a) the date on which the loan was made;
- (b) the amount actually lent to the borrower;
- (c) the rate per cent per annum of interest charged;
- (d) the date when the contract for repayment was made;
- (e) the fact that a note or memorandum of the contract was made and was signed by the borrower;
- (f) the date when a copy of the note or memorandum was delivered or sent to the borrower;
- (g) the amount repaid;
- (h) the amount due but unpaid;
- (i) the date upon which such unpaid sum or sums became due;

- (j) the amount of interest accrued due and unpaid on every such sum; and
- (k) the form in which the money was lent.

Judgment in default of appearance or defence (O. 79, r. 4).

4.—(1) In a moneylender's action judgment in default of appearance or in default of defence shall not be entered except with the leave of the Court.

(2) An application for the grant of leave under this Rule must be made by summons, and the summons must, notwithstanding anything in Order 62, Rule 10, be served on the defendant.

(3) If the application is for leave to enter judgment in default of appearance, the summons shall not be issued until after the time limited for appearing.

(4) On the hearing of such an application, whether the defendant appears or not, the Court —

- (a) may exercise the powers of the Court under section 22 (2) of the Moneylenders Act;
- (b) where it refuses leave under this Rule to enter judgment on a claim or any part of a claim, may make or give any such order or directions as it might have made or given or directions as it might have made or given had the application been an application under Order 14, Rule 1, for judgment on the claim.

Particulars to be included in originating summons (O. 79, r. 5).

5. Where a moneylender's action is begun by originating summons, the summons must contain a statement of the matters specified in Rules 2 and 3.

ORDER 80

ADMINISTRATION AND SIMILAR ACTIONS

Interpretation (O. 80, r. 1).

1. In this Order, "administration action" means an action for the administration under the direction of the Court of the estate of a deceased person or for the execution under the direction of the Court of a trust and "personal representatives" includes executors, administrators and trustees.

Determination of questions, etc., without administration (O. 80, r. 2).

2.—(1) An action may be brought for the determination of any question or for any relief which could be determined or granted, as the case may be, in an administration action and a claim need not be made in the action for the administration or execution under the direction of the Court of the estate or trust in connection with which the question arises or the relief is sought.

(2) Without prejudice to the generality of paragraph (1), an action may be brought for the determination of any of the following questions:

- (a) any question arising in the administration of the estate of a deceased person or in the execution of a trust;
- (b) any question as to the composition of any class of persons having a claim against the estate of a deceased person or a beneficial interest in the estate of such a person or in any property subject to a trust;
- (c) any question as to the rights or interests of a person claiming to be a creditor of the estate of a deceased person or to be entitled under a will or on the intestacy of a deceased person or to be beneficially entitled under a trust.

(3) Without prejudice to the generality of paragraph (1), an action may be brought for any of the following reliefs:

- (a) an order requiring a personal representative to furnish and, if necessary, verify accounts;
- (b) an order requiring the payment into Court of money held by a person in his capacity as personal representatives;
- (c) an order directing a person to do or abstain from doing a particular act in his capacity as personal representatives;
- (d) an order approving any sale, purchase, compromise or other transaction by a person in his capacity as personal representatives;
- (e) an order directing any act to be done in the administration of the estate of a deceased person or in the execution of a trust which the Court could order to be done if the estate or trust were being administered or executed, as the case may be, under the direction of the Court.

Parties (O. 80, r. 3).

3.—(1) All the personal representatives to which an administration or such an action as is referred to in Rule 2 relates must be parties to the action, and where the action is brought by personal representatives, any of them who does not consent to being joined as a plaintiff must be made a defendant.

(2) Notwithstanding anything in Order 15, Rule 4 (2) and without prejudice to the powers of the Court under that Order, all the persons having a beneficial interest in or claim against the estate or having a beneficial interest under the trust, as the case may be, to which such an action as is mentioned in paragraph (1) relates need not be parties to the action; but the plaintiff may make such of those persons, whether all or any one or more of them, parties as, having regard to the nature of the relief or remedy claimed in the action, he thinks fit.

(3) Where, in proceedings under a judgment or order given or made in an action for the administration under the direction of the Court of the estate of a deceased person, a claim in respect of a debt or other liability is made against the estate by a person not a party to the action, no party other than the executors or administrators of the estate shall be entitled to appear in any proceedings relating to that claim without the leave of the Court, and the Court may direct or allow any other party to appear either in addition to, or in substitution for, the executors or administrators on such terms as to costs or otherwise as it thinks fit.

Grant of relief in action begun by originating summons (O. 80, r. 4).

4. In an administration action or such an action as is referred to in Rule 2, the Court may make any certificate or order and grant any relief to which the plaintiff may be entitled by reason of any breach of trust, wilful default or other misconduct of the defendant notwithstanding that the action was begun by originating summons, but the foregoing provision is without prejudice to the power of the Court to make an order under Order 28, Rule 8, in relation to the action.

Judgments and orders in administration actions (O. 80, r. 5).

5.—(1) A judgment or order for the administration or execution under the direction of the Court of an estate or trust need not be given or made unless in the opinion of the Court the questions at issue between the parties cannot properly be determined otherwise than under such a judgment or order.

(2) Where an administration action is brought by a creditor of the estate of a deceased person or by a person claiming to be entitled under a will or on the intestacy of a deceased person or to be beneficially entitled under a trust, and the plaintiff alleges that no or insufficient accounts have been furnished by the personal representatives, as the case may be, then, without prejudice to its other powers, the Court may —

- (a) order that proceedings in the action be stayed for a period specified in the order and that the personal representatives, shall within that period furnish the plaintiff with proper accounts;

- (b) if necessary to prevent proceedings by other creditors or by other persons claiming to be entitled as aforesaid, give judgment or make an order for the administration of the estate to which the action relates and include therein an order that no proceedings are to be taken under the judgment or order, or under any particular account or inquiry directed, without the leave of the Judge in person.

Conduct of sale of trust property (O. 80, r. 6).

6. Where in an administration action an order is made for the sale of any property vested in personal representatives, those personal representatives shall have the conduct of the sale unless the Court otherwise directs.

ORDER 81

SUMMARY PROCEEDINGS FOR POSSESSION OF LAND

Proceedings to be brought by originating summons (O. 81, r. 1).

1. Where a person claims possession of land which he alleges is occupied solely by a person or persons (not being a tenant or tenants holding over after the termination of the tenancy) who entered into or remained in occupation without his licence or consent or that of any predecessor in title of his, the proceedings may be brought by originating summons in accordance with the provisions of this Order.

Jurisdiction (O. 81, r. 2).

2. Proceedings under this Order may be heard and determined by a Registrar, who may refer them to a Judge if he thinks they should properly be decided by the Judge.

Form of originating summons (O. 81, r. 3).

3. The originating summons shall be in Form 8A and no appearance need be entered to the originating summons.

Affidavit in support (O. 81, r. 4).

4.—(1) At the time of the filing of the originating summons under this Order, the plaintiff shall file in support of the originating summons an affidavit stating —

- (a) his interest in the land;
- (b) the circumstances in which the land has been occupied without licence or consent and in which his claim to possession arises; and

- (c) that he does not know the name of any person occupying the land who is not named in the summons.

(2) Where the plaintiff is unable, after taking reasonable steps, to identify every person occupying the land for the purpose of making him a defendant, the plaintiff should state in his affidavit that he has taken reasonable steps (describing them) to identify the persons occupying the land who are not named in the summons.

Service of originating summons (O. 81, r. 5).

5.—(1) Where any person in occupation of the land is named in the originating summons, the summons together with a copy of the affidavit in support shall be served on him —

- (a) personally;
- (b) by leaving a copy of the summons and of the affidavit or sending them to him at the premises; or
- (c) in such other manner as the Court may direct.

(2) Where any person not named as a defendant is in occupation of the land, the summons shall be served (whether or not it is also required to be served in accordance with paragraph (1)), unless the Court otherwise directs, by —

- (a) affixing a copy of the summons and a copy of the affidavit to the main door or other conspicuous part of the premises and, if practicable, inserting through the letter-box at the premises a copy of the summons and a copy of the affidavit enclosed in a sealed transparent envelope addressed to “the occupiers”; or
- (b) placing stakes in the ground at conspicuous parts of the occupied land, to each of which shall be affixed a sealed transparent envelope addressed to “the occupiers” and containing a copy of the summons and a copy of the affidavit.

(3) Order 28, Rule 3 shall not apply to proceedings under this Order.

Application by occupier to be made a party (O. 81, r. 6).

6. Without prejudice to Order 15, Rules 6 and 10, any person not named as a defendant who is in occupation of the land and wishes to be heard on the question whether an order for possession should be made may apply at any stage of the proceedings to be joined as a defendant.

Order for possession (O. 81, r. 7).

7.—(1) A final order for possession in proceedings under this Order shall, except in case of emergency and by leave of the Court, not be made less than 7 days after the date of service of the summons.

(2) An order for possession in proceedings under this Order shall be in Form 79A.

(3) Nothing in this Order shall prevent the Court from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if possession had been claimed in an action begun by writ.

Writ of possession (O. 81, r. 8).

8.—(1) Order 45, Rule 3 (2) shall not apply in relation to an order for possession under this Order but no writ of possession to enforce such an order shall be issued after the expiry of 3 months from the date of the order without the leave of the Court.

An application for leave may be made *ex parte* unless the Court otherwise directs.

(2) The writ of possession shall be in Form 90A.

Setting aside order (O. 81, r. 9).

9. The Court may, on such terms as it thinks just, set aside or vary any order made in proceedings under this Order.

ORDER 82

DEBENTURE HOLDERS' ACTION: RECEIVER'S REGISTER

Receiver's register (O. 82, r. 1).

1. Every receiver appointed by the Court in an action to enforce registered debenture or registered debenture stock shall, if so directed by the Court, keep a register of transfers of, and other transmissions of title to, such debentures or stock (referred to in this Order as the receiver's register).

Registration of transfers, etc. (O. 82, r. 2).

2.—(1) Where a receiver is required by Rule 1 to keep a receiver's register, then, on the application of any person entitled to any debentures or debenture stock by virtue of any transfer or other transmission of title, and on production of such evidence of identity and title as the receiver may reasonably require, the receiver shall, subject to paragraphs (2) and (3), register the transfer or other transmission of title, and on production of such evidence of identity and title as the receiver may reasonably require, the receiver shall, subject to paragraphs (2) and (3), register the transfer or other transmission of title in that register.

(2) Before registering a transfer the receiver must, unless the due execution of the transfer is proved by affidavit, send by post to the registered holder of the debentures or debenture stock transferred at his registered address a notice stating —

- (a) that an application for the registration of the transfer has been made; and
- (b) that the transfer will be registered unless within the period specified in the notice the holder informs the receiver that he objects to the registration, and no transfer shall be registered until the period so specified has elapsed.

The period to be specified in the notice shall in no case be less than 7 days after a reply from the registered holder would in the ordinary course of post reach the receiver if the holder had replied to the notice on the day following the day when in the ordinary course of post the notice would have been delivered at the place to which it was addressed.

(3) On registering a transfer or other transmission of title under this Rule the receiver must endorse a memorandum thereof on the debenture or certificate of debenture stock, as the case may be, transferred or transmitted, containing a reference to the action and to the order appointing him receiver.

Application for rectification of receiver's register (O. 82, r. 3).

3.—(1) Any person aggrieved by anything done or omission made by a receiver under Rule 2 may apply to the Court for rectification of the receiver's register, the application to be made by summons in the action in which the receiver was appointed.

(2) The summons shall in the first instance be served only on the plaintiff or other party having the conduct of the action but the Court may direct the summons or notice of the application to be served on any other person appearing to be interested.

(3) The Court hearing an application under this Rule may decide any question relating to the title of any person who is party to the application to have his name entered in or omitted from the receiver's register and generally may decide any question necessary or expedient to be decided for the rectification of that register.

Receiver's register evidence of transfers, etc. (O. 82, r. 4).

4. Any entry made in the receiver's register, if verified by an affidavit made by the receiver or by such other person as the Court may direct, shall in all proceedings in the action in which the receiver was appointed be evidence of the transfer or transmission of title to which the entry relates and, in particular, shall be accepted as evidence thereof for the purpose of any distribution of assets, notwithstanding that the transfer or transmission

has taken place after the making of a certificate in the action certifying the holders of the debentures or debenture stock certificates.

Proof of title of holder of bearer debenture, etc. (O. 82, r. 5).

5.—(1) This Rule applies in relation to an action to enforce bearer debentures or to enforce debenture stock in respect of which the company has issued debenture stock bearer certificates.

(2) Notwithstanding that judgment has been given in the action and that a certificate has been made therein certifying the holders of such debentures or certificates as are referred to in paragraph (1), the title of any person claiming to be such a holder shall (in the absence of notice of any defect in the title) be sufficiently proved by the production of the debenture or debenture stock certificates, as the case may be, together with a certificate of identification signed by the person producing the debenture or certificate identifying the debenture or certificate produced and certifying the person giving his name and address who is the holder thereof.

(3) Where such a debenture or certificate as is referred to in paragraph (1) is produced in the Chambers of the Judge, the solicitor of the plaintiff in the action must cause to be endorsed thereon a notice stating —

- (a) that the person whose name and address is specified in the notice (being the person named as the holder of the debenture or certificate in the certificate of identification produced under paragraph (2)) has been recorded in the Chambers of the Judge as the holder of the debenture or debenture stock certificate, as the case may be;
- (b) that that person will, on producing the debenture or debenture stock certificate, as the case may be, be entitled to receive payment of any dividend in respect of that debenture or stock unless before payment a new holder proves his title in accordance with paragraph (2); and
- (c) that if a new holder neglects to prove his title as aforesaid he may incur additional delay, trouble and expense in obtaining payment.

(4) The solicitor of the plaintiff in the action must preserve any certificate of identification produced under paragraph (2) and must keep a record of the debentures and debenture stock certificates so produced and of the names and addresses of the persons producing them and of the holders thereof, and, if the Court requires it, must verify the record by affidavit.

Requirements in connection with payments (O. 82, r. 6).

6.—(1) Where in an action to enforce any debentures or debenture stock an order is made for payment in respect of the debentures or stock, the Accountant-General shall not make a payment in respect of any such debenture or stock unless either there is produced to him the certificate for which paragraph (2) provides or the Court has in the case in question for special reason dispensed with the need for the certificate and directed payment to be made without it.

(2) For the purpose of obtaining any such payment the debenture or debenture stock certificate must be produced to the solicitor of the plaintiff in the action or to such other person as the Court may direct and that solicitor or person must endorse thereon a memorandum of payment and must make and sign a certificate certifying that the statement set out in the certificate has been endorsed on the debenture or debenture stock certificate, as the case may be, and send the certificate to the Accountant-General.

ORDER 83**MORTGAGE ACTIONS****Application and interpretation (O. 83, r. 1).**

1.—(1) This Order applies to any action (whether begun by writ or originating summons) by a mortgagee or mortgagor or by any person having the right to foreclose or redeem any mortgage, being an action in which there is a claim for any of the following reliefs:

- (a) payment of moneys secured by the mortgage;
- (b) sale of the mortgaged property;
- (c) foreclosure;
- (d) delivery of possession (whether before or after foreclosure or without foreclosure) to the mortgagee by the mortgagor or by any other person who is or is alleged to be in possession of the property;
- (e) redemption;
- (f) reconveyance of the property or its release from the security;
- (g) delivery of possession by the mortgagee.

(2) In this Order, “mortgage” includes a legal and an equitable mortgage and a legal and an equitable charge, and references to a mortgagor, a mortgage and mortgaged property shall be construed accordingly.

(3) An action to which this Order applies is referred to in this Order as a mortgage action.

(4) These Rules apply to mortgage actions subject to the following provisions of this Order.

Claims for possession: Non-appearance by a defendant (O. 83, r. 2).

2.—(1) Where in a mortgage action begun by originating summons, being an action in which the plaintiff is the mortgagee and claims delivery of possession or payments of moneys secured by the mortgage or both, any defendant fails to enter an appearance, the following provisions of this Rule shall apply, and references in those provisions to the defendant shall be construed as references to any such defendant.

This Rule shall not be taken as affecting Order 28, Rule 3, or Rule 5 (2), in so far as it requires any document to be served on, or notice given to, a defendant who has entered an appearance in the action.

(2) Not less than 4 clear days before the day fixed for the first hearing of the originating summons the plaintiff must serve on the defendant a copy of the notice of appointment for the hearing and a copy of the affidavit in support of the summons.

(3) Where the plaintiff claims delivery of possession there must be endorsed on the outside fold of the copy of the affidavit served on the defendant a notice informing the defendant that the plaintiff intends at the hearing to apply for an order to the defendant to deliver up to the plaintiff possession of the mortgaged property and for such other relief (if any) claimed by the originating summons as the plaintiff intends to apply for at the hearing.

(4) Where the hearing is adjourned, then, subject to any directions given by the Court, the plaintiff must serve notice of the appointment for the adjourned hearing, together with a copy of any further affidavit intended to be used at that hearing, on the defendant not less than two clear days before the day fixed for the hearing.

A copy of any affidavit served under this paragraph must be endorsed in accordance with paragraph (3).

(5) Service under paragraph (2) or (4), and the manner in which it was effected, may be proved by a certificate signed by the plaintiff, if he sues in person, and otherwise by his solicitor.

The certificate may be endorsed on the affidavit in support of the summons or, as the case may be, on any further affidavit intended to be used at an adjourned hearing.

(6) A copy of any exhibit to an affidavit need not accompany the copy of the affidavit served under paragraph (2) or (4).

(7) Where the plaintiff gives notice to the defendant under Order 3, Rule 6 of his intention to proceed, service of the notice, and the manner in which it was effected, may be proved by a certificate signed as mentioned in paragraph (5).

Action for possession or payment (O. 83, r. 3).

3.—(1) The affidavit in support of the originating summons by which an action to which this Rule applies is begun must comply with the following provisions of this Rule.

This Rule applies to a mortgage action begun by originating summons in which the plaintiff is the mortgagee and claims delivery of possession or payment of moneys secured by the mortgage or both.

(2) The affidavit must exhibit a true copy of the mortgage.

(3) Where the plaintiff claims delivery of possession the affidavit must show the circumstances under which the right to possession arises and, except where the Court in any case or class otherwise directs, the state of the account between the mortgagor and mortgagee with particulars of —

(a) the amount of the advance;

(b) the amount of the repayments;

(c) the amount of any interest or instalments in arrear at the date of issue of the originating summons and at the date of the affidavit; and

(d) the amount remaining due under the mortgage.

(4) Where the plaintiff claims delivery of possession, the affidavit must give particulars of every person who to the best of the plaintiff's knowledge is in possession of the mortgaged property.

(5) If the mortgage creates a tenancy other than a tenancy at will between the mortgagor and mortgagee, the affidavit must show how and when the tenancy was determined and if by service of notice when the notice was duly served.

(6) Where the plaintiff claims payment of moneys secured by the mortgage, the affidavit must prove that the money is due and payable and give the particulars mentioned in paragraph (3).

(7) [Note: Deleted by S 515/92]

Action by writ: Judgment in default (O. 83, r. 4).

4.—(1) Notwithstanding anything in Order 13 or Order 19, in a mortgage action begun by writ, judgment in default of appearance or in default of defence shall not be entered except with the leave of the Court.

(2) An application for the grant of leave under this Rule must be made by summons and the summons must, notwithstanding anything in Order 62, Rule 10, be served on the defendant.

(3) Where a summons for leave under this Rule is issued, Rule 2 (2) to (7) shall apply in relation to the action subject to the modification that for references therein to the originating summons, and for the reference in paragraph (2) to the notice of appointment, there shall be substituted references to the summons.

(4) Where a summons for leave under this Rule is issued in an action to which Rule 3 would apply had the action been begun by originating summons, the affidavit in support of the summons must contain the information required by that Rule.

Foreclosure in redemption action (O. 83, r. 5).

5. Where foreclosure has taken place by reason of the failure of the plaintiff in a mortgage action for redemption to redeem, the defendant in whose favour the foreclosure has taken place may apply by motion for an order for delivery to him of possession of the mortgaged property, and the Court may make such order thereon as it thinks fit.

ORDER 84

PROCEEDINGS RELATING TO INFANTS

Applications under Guardianship of Infants Act (O. 84, r. 1).

1. Where there is pending any action or other proceeding by reason of which an infant is a ward of court, any application under the Guardianship of Infants Act (Chapter 122) (referred to in this Order as the Act), with respect to that infant may be made by summons in the proceeding, but except in that case any such application must be made by originating summons.

Defendants to summons (O. 84, r. 2).

2.—(1) Where the infant with respect to whom an application under the Act is made is not the plaintiff, he shall not, unless the Court otherwise directs, be made a defendant to the summons or, if the application is made by ordinary summons, be served with the summons, but, subject to paragraph (2), any other person appearing to be interested in, or affected by, the application shall be made a defendant or be served with the summons, as the case may be.

(2) The Court may dispense with service of the summons (whether originating or ordinary) on any person and may order it to be served on any person not originally served.

Applications as to guardianship, maintenance, etc. (O. 84, r. 3).

3.—(1) Applications as to the guardianship, maintenance or advancement of infants may be disposed of in Chambers.

(2) A guardian's account must be verified and passed in the same manner as that provided by Order 30 in relation to a receiver's account or in such other manner as the Court may direct.

ORDER 85**BILLS OF SALE ACT****Restraining removal or sale of goods seized (O. 85, r. 1).**

1.—(1) Every application to the High Court under section 8 (3) of the Bills of Sale Act (Chapter 24) (referred to in this Order as the Act) shall be made by originating summons in Form 7.

(2) Such an application shall be supported by an affidavit setting out the grounds on which the application is made.

Rectification of register (O. 85, r. 2).

2.—(1) Every application to a Judge of the High Court under section 16 of the Act shall be made by ex parte originating summons.

(2) Such an application shall be supported by an affidavit setting out particulars of the bill of sale and of the omission or misstatement in question and stating the grounds on which the application is made.

Entry of satisfaction (O. 85, r. 3).

3.—(1) Every application to a Judge of the High Court under section 16 of the Act shall be made by originating summons in Form 7.

(2) If a consent to the satisfaction signed by the person entitled to the benefit of the bill of sale can be obtained, such an application may be made by ex parte originating summons to the Registrar of the Supreme Court.

(3) An application under paragraph (1) must be —

- (a) served on the person entitled to the benefit of the bill of sale; and
- (b) supported by an affidavit that the debt (if any) for which the bill of sale was made has been satisfied or discharged.

(4) An application under paragraph (2) must be supported by —

- (a) an affidavit setting out the particulars of the consent to the satisfaction; and
- (b) an affidavit by a witness who attested the consent verifying the signature on it.

Search of register (O. 85, r. 4) .

4. Any person who wishes to make searches or to obtain office copies under section 17 of the Act shall make a request in writing to the registrar of bills of sale setting out sufficient particulars.

ORDER 85A**PROCEEDINGS ARISING OUT OF
HIRE-PURCHASE AGREEMENTS****Application (O. 85A, r. 1).**

1. These Rules apply to proceedings under the Hire-Purchase Act (Chapter 125) subject to the following Rules.

Mode of application under Hire-Purchase Act (O. 85A, r. 2).

2. An application under sections 5 (3), 10, 32, 43 or 44 of the Hire-Purchase Act must be made by originating summons in Form 192A supported by an affidavit setting out the facts and the grounds on which the application is made.

Particulars to be included in statement of claim (O. 85A, r. 3).

3. Where the plaintiff's claim is for the recovery of money arising out of a hire-purchase agreement, he must, in his statement of claim, give the following particulars:

- (a) the date of the agreement and the parties thereto;
- (b) the goods let under the agreement;
- (c) the amount of the hire-purchase price;
- (d) the amount paid by or on behalf of the hirer;
- (e) the amount (if any) claimed as being due and unpaid in respect of any instalment or instalments of the hire-purchase price; and
- (f) the amount of any other claim and the circumstances in which it arises.

ORDER 86**INHERITANCE (FAMILY PROVISION) ACT****Interpretation (O. 86, r. 1).**

1. In this Order, "Act" means the Inheritance (Family Provision) Act (Chapter 138).

Powers of Courts as to parties (O. 86, r. 2).

2.—(1) Without prejudice to its powers under Order 15, the Court may at any stage of the proceedings under the Act by order direct that any person be added as a party to the proceedings or that notice of the proceedings be served on any person.

(2) Order 15, Rule 13 shall apply to proceedings under the Act as it applies to the proceedings mentioned in paragraph (1) of that Rule.

Affidavit in support to be filed (O. 86, r. 3).

3. An affidavit in support of an originating summons by which an application under section 3 of the Act is made must be filed before the first hearing of the summons and Order 28, Rule 3 (3), shall apply accordingly.

Disposal of application in Chambers, etc. (O. 86, r. 4).

4. Any application under the Act in which it appears to the Court that the interests of an infant or other person under disability are affected may, if the Court thinks fit so to direct, be disposed of in Chambers, but any order under section 3 or 6 of the Act shall be made by the Judge in person.

Applications in proceedings under section 3 (O. 86, r. 5).

5. Where an order has been made on an application under section 3 of the Act, any subsequent application, whether made by a party to the proceedings in which such order was made, or by a person on whom notice of the application for the order was served or by or on behalf of such person as is mentioned in section 6 (2) of the Act, must be made by summons in those proceedings.

Endorsement of memorandum on probate, etc. (O. 86, r. 6).

6.—(1) The personal representatives of the deceased to whose estate an application under section 3 or 6 of the Act relates must produce in Court at the hearing of the application the probate or letters of administration under which the estate is being administered; and if the Court makes an order under the Act or an order dismissing the application the probate or letters of administration shall remain in the custody of the Court until section 5 (3) of the Act has been complied with.

(2) The memorandum of the order required by section 5 (3) of the Act to be endorsed or annexed as therein mentioned must set out the title of the proceedings in question and the operative part of the order in full.

ORDER 87

TRADE MARKS ACT

Interpretation (O. 87, r. 1).

1. In this Order, "Act" means the Trade Marks Act (Chapter 332).

Appeals and applications under the Act (O. 87, r. 2).

2.—(1) Every appeal to the High Court under the Act, shall be heard and determined by a single Judge.

(2) Subject to Rule 3, every application to the High Court under the Act must be begun by originating motion.

(3) Notice of the motion by which any such application is made must be served on the Registrar of Trade Marks.

(4) Where the Registrar of Trade Marks refers to the High Court an application under the Act made to him, then, unless within one month after receiving notification of the decision to refer, the applicant makes to the Court the application, he shall be deemed to have abandoned it.

(5) The period prescribed by paragraph (4) may be extended by the Registrar of Trade Marks on the application of any party interested and may be so extended although the application is not made until after the expiration of that period, but the foregoing provision shall not be taken to affect the power of the Court under Order 3, Rule⁴⁵, to extend that period.

(6) Where under section 11 (5) or 19 (8) of the Act an appellant becomes entitled and intends to withdraw his application which is the subject-matter of the appeal, he must give notice of his intention to the Registrar of Trade Marks and to any other party to the appeal within one month after the Court has given leave under section 11 (5) or 19 (8), as the case may be, for further grounds of objection to be taken.

Proceeding for infringement of registered trade mark:**Validity of registration disputed (O. 87, r. 3).**

3.—(1) Where in any proceedings a claim is made for relief for infringement of the right to the use of a registered trade mark, the party against whom the claim is made may in his defence put in issue the validity of the registration of that trade mark or may counterclaim for an order that the register of trade marks be rectified by cancelling or varying the relevant entry or may do both those things.

(2) A party to any such proceedings who in his pleading (whether a defence or counterclaim) disputes the validity of the registration of a registered trade mark must serve with the pleading particulars of the objections to the validity of the registration on which he relies in support of the allegation of invalidity.

(3) A party to any such proceedings who counterclaims for an order that the register of trade marks be rectified must serve on the Registrar of Trade Marks a copy of the counterclaim together with a copy of the particulars mentioned in paragraph (2); and the Registrar of Trade Marks shall be entitled to take such part in the proceedings as he may think fit but need not serve a defence or other pleading unless ordered to do so by the Court.

ORDER 87A

PATENTS ACT

Appeals under Patents Act (O. 87A, r. 1).

1.—(1) An appeal to the Court from a decision of the Registrar of Patents in any case in which a right of appeal is given by the Patents Act (Chapter 221) must be brought by originating motion, and the notice of motion is referred to in this Rule as “notice of appeal”.

(2) An appeal shall be by way of rehearing and the evidence used on appeal shall be the same as that used before the Registrar of Patents and, except with the leave of the Court, no further evidence shall be given.

Notice of appeal (O. 87A, r. 2).

2.—(1) Notice of appeal shall be lodged with the Court —

(a) in the case of a decision on a matter of procedure, within 14 days after the date of the decision; and

(b) in any other case, within 6 weeks after the date of the decision.

(2) The Registrar of Patents may determine whether any decision is on a matter of procedure and any such determination shall itself be a decision on a matter of procedure.

(3) Notice of appeal may be given in respect of the whole or any specific part of the decision of the Registrar of Patents and must specify the grounds of the appeal and the relief which the appellant seeks.

(4) Except with the leave of the Court, the appellant shall not be entitled on the hearing of the appeal to rely on any ground of appeal or to apply for any relief not specified in the notice of appeal.

(5) The appellant shall, within 5 days of lodging a notice of appeal, serve a copy thereof on the Registrar of Patents and other party to the proceedings before the Registrar.

(6) On receiving the notice of appeal, the Registrar of Patents shall forthwith transmit to the Court all the papers relating to the matter which is the subject of the appeal.

(7) Except by leave of the Court, no appeal shall be entertained unless the notice of appeal has been given within the period specified in paragraph (1) or within such further time as the Registrar of Patents may allow upon request made to him prior to the expiry of that period.

Respondent's notice (O. 87A, r. 3).

3.—(1) A respondent who, not having appealed from the decision of the Registrar of Patents, desires to contend on the appeal that the decision should be varied, either in any event or in the event of the appeal being allowed in whole or in part, must give notice to that effect, specifying the grounds of that contention and the relief which he seeks from the Court.

(2) A respondent who desires to contend on the appeal that the decision of the Registrar of Patents should be affirmed on grounds other than those set out in the decision must give notice to that effect, specifying the grounds of that contention.

(3) A respondent's notice shall be served on the Registrar of Patents and on the appellant and every other party to the proceedings before the Registrar within 14 days after receipt of notice of appeal by the respondent, or within such further time as the Court may direct.

(4) A respondent must, within 5 days after service of the notice of the appellant, furnish two copies of the notice to the Court.

Hearing of appeal (O. 87A, r. 4).

4. The Court shall give to the Registrar of Patents and to the appellant and every other party to the proceedings before the Registrar not less than 7 days' notice of the date appointed for the hearing of the appeal, unless the Court directs that a shorter notice be given.

ORDER 88

COMPANIES ACT

Interpretation (O. 88, r. 1).

1. In this Order, "Act" means the Companies Act (Chapter 50).

Applications to be made by originating summons (O. 88, r. 2).

2.—(1) Unless otherwise provided in the Act, every application under the Act must be made by originating summons and these Rules shall apply subject to this Order.

(2) No appearance need be entered to an originating summons under this Rule unless the application made by the summons is —

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- (a) an application under section 13 of the Act for an order directing a company and any officer thereof to make good any such default as is mentioned in that section;
 - (b) an application under section 32 of the Act for an order directing a company be relieved from the consequences of default in complying with conditions constituting the company a private company;
 - (c) an application under section 216 of the Act for relief in cases of oppression;
 - (d) an application under section 227 of the Act for an order directing a receiver and manager of a company to make good any such default as is mentioned in subsection (1) of that section; or
 - (e) an application under section 236 (5) for an inquiry into such case as is mentioned therein.

(3) An application under section 394 of the Act may be made by ex parte originating summons.

Entitlement of proceedings (O. 88, r. 3).

3.—(1) Every originating summons which this Order relates and all affidavits, notices and other documents in those proceedings must be entitled in the matter of the company in question and in the matter of the Act.

(2) The originating summons by which an application for leave under section 154 (1) of the Act is made must be entitled in the matter of the company (if any) in relation to which the applicant was convicted and in the matter of the Act.

Summons for directions (O. 88, r. 4).

4.—(1) Without prejudice to the generality of Order 28, Rule 4, on the first hearing of an originating summons to which this Order relates the Court may by order give such direction as to the proceedings to be taken as it thinks fit including in particular, directions for the publication of notices and the making of any inquiry.

(2) Where the application made is to confirm a reduction of the share capital, the share premium account, or the capital redemption reserve fund, of a company, then, without prejudice to the generality of paragraph (1), the Court may give directions —

- (a) for an inquiry to be made as to the debts of, and claims against, the company or as to any class or classes of such debts or claims;

- (b) as to the proceedings to be taken for settling the list of creditors entitled to object to the reduction and fixing the date by reference to which the list is to be made;

and the power of the Court under section 73 (3) of the Act to direct that section 73 (2) thereof shall not apply as regards any class of creditors may be exercised on any hearing of the summons.

(3) Rules 5 to 10 shall have effect subject to any directions given by the Court under this Rule.

Inquiry as to debts: Company to make list of creditors (O. 88, r. 5).

5.—(1) Where under Rule 4 the Court orders such an inquiry as is mentioned in paragraph (2) thereof, the company in question must, within 7 days after the making of the order, file in the Registry an affidavit made by an officer of the company competent to make it verifying a list containing —

- (a) the name and address of every creditor entitled to any debt or claim to which the inquiry extends;
- (b) the amount due to each creditor in respect of such debt or claim or, in the case of a debt or claim which is subject to any contingency or sounds only in damages or for some other reason does not bear a certain value, a just estimate of the value thereof; and
- (c) the total of those amounts and values.

(2) The deponent must state in the affidavit his belief that at the date fixed by the Court as the date by reference to which the list is to be made there is no debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, other than the debts or claims set out in the list and any debts or claims to which the inquiry does not extend, and must also state his means of knowledge of the matters deposed to.

(3) The list must be left at the Registry not later than one day after the affidavit is filed.

Inspection of list of creditors (O. 88, r. 6).

6.—(1) Copies of the list made under Rule 5 with the omission, unless the Court otherwise directs, of the amount due to each creditor and the estimated value of any debt or claim to which any creditor is entitled, shall be kept at the registered office of the company and at the office of that company's solicitor.

(2) Any person shall be entitled during ordinary business hours, on payment of a fee of 50 cents, to inspect the said list at any such office and to take extracts therefrom.

Notice to creditors (O. 88, r. 7).

7. Within 7 days after filing the affidavit required by Rule 5 the company must send by post to each creditor named in the list exhibited to the affidavit, at his last known address, a notice stating —

- (a) the amount of the reduction sought to be confirmed;
- (b) the effect of the order directing an inquiry as to debts and claims;
- (c) the amount or value specified in the list as due or estimated to be due to that creditor; and
- (d) the time fixed by the Court within which, if he claims to be entitled to a larger amount, he must send particulars of his debt or claim and the name and address of his solicitor, if any, to the company's solicitor.

Advertisement of originating summons and list of creditors (O. 88, r. 8).

8. After filing the affidavit required by Rule 5 the company must insert, in such newspapers and at such times as the Court directs, a notice stating —

- (a) the date of filing of the originating summons and the amount of the reduction thereby sought to be confirmed;
- (b) the inquiry ordered by the Court under Rule 4;
- (c) the places where the list of creditors may be inspected in accordance with Rule 6; and
- (d) the time within which any creditor not named in the list who claims to be entitled to any debt or claim to which the inquiry extends must send his name and address, the name and address of the solicitor, if any, and particulars of his debt or claim to the company's solicitor.

Affidavit as to claims made by creditors (O. 88, r. 9).

9. Within such time as the Court directs the company must file in the Registry an affidavit made by the company's solicitor and an officer of the company competent to make it —

- (a) proving service of the notices mentioned in Rule 7 and advertisement of the notice mentioned in Rule 8;
- (b) verifying a list containing the names and addresses of the persons (if any) who in pursuance of such notices sent in particulars of debts or claims, specifying the amount of each debt or claim;
- (c) distinguishing in such list those debts or claims which are wholly, or as to any and what part thereof, admitted by the company, disputed by the company or alleged by the company to be outside the scope of the inquiry; and

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- (d) stating which of the persons named in the list made under Rule 5, and which of the persons named in the list made under this Rule, have been paid or consent to the reduction sought to be confirmed.

Adjudication of disputed claims (O. 88, r. 10).

10. If the company contends that a person is not entitled to be entered in the list of creditors in respect of any debt or claim or in respect of the full amount claimed by him in respect of any debt or claim, then, unless the company is willing to secure payment of that debt or claim by appropriating the full amount of the debt or claim, the company must, if the Court so directs, send to that person by post at his last known address a notice requiring him —

- (a) within such time as may be specified in the notice, being not less than 4 clear days after service thereof, to file an affidavit proving his debt or claim or, as the case may be, so much thereof as is not admitted by the company; and
- (b) to attend the adjudication of his debt or claim at the place and time specified in the notice, being the time appointed by the Court for the adjudication of debts and claims.

Certifying list of creditors entitled to object to reduction (O. 88, r. 11).

11. The list of creditors entitled to object to such reduction as is mentioned in Rule 4 (2), as settled by the Court under section 73 (2) of the Act, shall be certified and filed by the Registrar and his certificate shall —

- (a) specify the debts or claims (if any) disallowed by the Court;
- (b) distinguish the debts or claims (if any) the full amount of which is admitted by the company, the debts or claims (if any) the full amount of which, though not admitted by the company, the company is willing to appropriate, the debts or claims (if any) the amount of which has been fixed by adjudication of the Court under section 73 (2) of the Act and other debts or claims;
- (c) specify the total amount of the debts or claims payment of which has been secured by appropriation under the said section 73 (2);
- (d) show which creditors consent to the reduction and the total amount of their debts or claims; and
- (e) specify the creditors who sought to prove their debts or claims under Rule 10 and state which of such debts or claims were allowed.

Evidence of consent of creditor (O. 88, r. 12).

12. The consent of a creditor to such reduction as is mentioned in Rule 4 (2) may be proved in such manner as the Court thinks sufficient.

Time, etc., of hearing for confirmation of reduction (O. 88, r. 13).

13.—(1) An originating summons for the confirmation of any such reduction as is mentioned in Rule 4 (2) shall not, where the Court has directed an inquiry pursuant to that Rule, be heard before the expiration of at least 8 clear days after the filing of the certificate mentioned in Rule 11.

(2) Before the hearing of such an originating summons, a notice specifying the day appointed for the hearing must be published at such times and in such newspapers as the Court may direct.

Restriction on taking effect of order under section 68 (O. 88, r. 14).

14. Unless the Court otherwise directs, an order under section 68 of the Act confirming the issue of shares at a discount shall direct that an office copy of the order be delivered to the Registrar of Companies within 10 days after the making of the order or such extended time as the Court may allow and that the order shall not take effect until such copy has been so delivered.

ORDER 89**SUBORDINATE COURTS ACT****Time for making application under sections 24, 37 and 39 (O. 89, r. 1).**

1.—(1) Any application to the High Court under sections 24, 37 and 39 of the Subordinate Courts Act (Chapter 321) must be made by originating summons in Form 7.

(2) The High Court hearing such an application may order the proceedings in the Subordinate Courts to be stayed until after the final determination of the application.

Procedure on transfer from the Subordinate Courts (O. 89, r. 2).

2.—(1) Where an order is made by the High Court for the transfer of any proceedings from the Subordinate Courts to the High Court, the Registrar of the Subordinate Courts must send to the Registrar of the Supreme Court the file of the proceedings, all documents, exhibits and a certified copy of the notes of evidence (if any) of the proceedings.

(2) The Registrar of the Supreme Court must give notice of the transfer to every party to the proceedings.

Procedure on transfer from the High Court (O. 89, r. 3).

3.—(1) Where an order is made by the High Court for the transfer of any proceedings from the High Court to the Subordinate Courts, the Registrar of the Supreme Court must send to the Registrar of the Subordinate Courts the file of the proceedings, all documents, exhibits and a certified copy of the notes of evidence (if any) of the proceedings.

(2) The Registrar of the Subordinate Courts must give notice of the transfer to every party to the proceedings.

(3) Subject to any directions in the order of the High Court, the trial shall proceed as if the proceedings were commenced in the Subordinate Courts.

Transfer of proceedings within the Subordinate Courts (O. 89, r. 4).

4.—(1) Where a Subordinate Court is satisfied that any proceedings in that Court ought to be tried in some other Subordinate Court, it may order the proceedings to be transferred to the other Court.

(2) Any order under paragraph (1) may be made by the Court on its own motion or on the application by summons of any party to the proceedings.

(3) Where an order under paragraph (1) is made by the Court on its own motion, the Registrar must give notice of the transfer to every party to the proceedings.

ORDER 89A**CORRUPTION (CONFISCATION OF BENEFITS) ACT****Interpretation (O. 89A, r. 1).**

1.—(1) In this Order, “Act” means the Corruption (Confiscation of Benefits) Act (Chapter 65A) and any reference to a section shall, unless it is otherwise expressly provided, be construed as a reference to a section in the Act.

(2) Expressions used in this Order which are used in the Act have the same meanings in this Order as in the Act.

Application for restraint order or charging order (O. 89A, r. 2).

2.—(1) An application for a restraint order under section 11 or for a charging order under section 12 (to either of which may be joined an application for the appointment of a receiver) may be made by the Public Prosecutor ex parte by originating summons.

(2) An application under paragraph (1) must be supported by an affidavit which must —

- (a) state the grounds for believing that the defendant has derived benefits from corruption;
- (b) state, as the case may be, —
 - (i) that proceedings have been instituted against the defendant for a corruption offence and that they have not been concluded;
 - (ii) that the consent of the Public Prosecutor has been obtained under section 31 of the Prevention of Corruption Act (Chapter 241) for the prosecution of the defendant;
 - (iii) that the defendant has been officially informed pursuant to section 122 (6) of the Criminal Procedure Code (Chapter 68) that he may be prosecuted for a corruption offence; or
 - (iv) that after investigations for a corruption offence have been commenced against the defendant, the defendant died or cannot be found or is outside the jurisdiction;
- (c) to the best of the deponent's ability, give full particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property; and
- (d) where proceedings have not been instituted, indicate when it is intended that they should be instituted.

(3) An originating summons under paragraph (1) shall be entitled in the matter of the defendant, naming him, and in the matter of the Act, and all subsequent documents in the matter shall be so entitled.

(4) Unless the Court otherwise directs, an affidavit under paragraph (2) may contain statements of information or belief with the sources and grounds thereof.

Restraint and charging orders (O. 89A, r. 3).

3.—(1) A restraint order may be made subject to conditions and exceptions, including but not limited to conditions relating to the indemnifying of third parties against expenses incurred in complying with the order, and exceptions relating to living expenses and legal expenses of the defendant, but the Public Prosecutor shall not be required to give an undertaking to abide by any order as to damages sustained by the defendant as a result of the restraint order.

(2) Unless the Court otherwise directs, a restraint order made *ex parte* shall have effect until a day which shall be fixed for the hearing *inter partes* of the application and a charging order shall be an order to show cause, imposing the charge until such day.

(3) Where a restraint order is made, the Public Prosecutor must serve copies of the order and of the affidavit in support on the defendant and on all other named persons restrained by the order and shall notify all other persons or bodies affected by the order of its terms.

(4) Where a charging order is made the Public Prosecutor must, unless the Court otherwise directs, serve copies of the order and of the affidavit in support on the defendant and, where property to which the order relates is held by another person, on that person and must serve a copy of the order on such of the persons or bodies specified in Order 50, Rule 2 (1), as shall be appropriate.

Discharge or variation of order (O. 89A, r. 4).

4.—(1) Any person or body on whom a restraint order or a charging order is served or who is notified of such an order may apply by summons to discharge or vary the order.

(2) The summons and any affidavit in support must be lodged with the Court and served on the Public Prosecutor and, where the defendant is not the applicant, on him, not less than two clear days before the date fixed for the hearing of the summons.

Further application (O. 89A, r. 5).

5.—(1) Where a restraint order or a charging order has been made, the Public Prosecutor may apply by summons or, where the case is one of urgency, *ex parte* —

(a) to discharge or vary such order;

(b) for a restraint order or a charging order in respect of other realisable property; or

(c) for the appointment of a receiver.

(2) An application under paragraph (1) must be supported by an affidavit which, where the application is for a restraint order or a charging order, must to the best of the deponent's ability give full particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property.

(3) The summons and affidavit in support must be lodged with the Court and served on the defendant and, where one has been appointed in the matter, on the receiver, not less than two clear days before the date fixed for hearing of the summons.

(4) Rule 3 (3) and (4) applies to the service of restraint orders and charging orders respectively made under this Rule on persons other than the defendant.

Realisation of property (O. 89A, r. 6).

6.—(1) An application by the Public Prosecutor under section 14 must be made by summons.

(2) The summons must be served with the affidavit in support thereof not less than 7 days before the date fixed for the hearing of the summons on —

(a) the defendant;

(b) any person holding any interest in the realisable property to which the application relates; and

(c) the receiver, where one has been appointed in the matter.

(3) The application must be supported by an affidavit, which must to the best of the deponent's ability give full particulars of the realisable property to which it relates and specify the person or persons holding such property, and a copy of the confiscation order, of any certificate issued by the Court under section 7 (2) and of any charging order made in the matter must be exhibited to such affidavit.

(4) The Court may, on an application under section 14, exercise the power conferred by section 15 (1) to direct the making of payments by the receiver.

Receivers (O. 89A, r. 7).

7.—(1) Subject to this Rule, Order 30, Rules 2 to 6, shall apply where the Public Trustee is appointed as receiver in pursuance of a charging order or under section 11 or 14.

(2) It shall not be necessary for an affidavit of fitness to be sworn or for the Public Trustee to give security, unless the Court otherwise orders.

(3) Where the Public Trustee has fully paid the amount payable under the confiscation order and any sums remain in his hands, he must apply by summons for directions as to the distribution of such sums.

(4) A summons under paragraph (3) must be served with an affidavit in support not less than 7 days before the date fixed for the hearing of the summons on —

(a) the defendant; and

(b) any other person who held property realised by the receiver.

Certificate of inadequacy (O. 89A, r. 8).

8.—(1) The defendant may apply by summons for a certificate under section 17 (1).

(2) A summons under paragraph (1) must be served with an affidavit in support not less than 7 days before the date fixed for the hearing of the summons on the Public Prosecutor and on the receiver, where one has been appointed in the matter.

Hearing in Chambers (O. 89A, r. 9).

9. All applications under this Order must be heard by a Judge in Chambers.

ORDER 89B

DRUG TRAFFICKING (CONFISCATION OF BENEFITS) ACT

Interpretation (O. 89B, r. 1).

1.—(1) In this Order, “Act” means the Drug Trafficking (Confiscation of Benefits) Act (Chapter 84A) and any reference to a section shall, unless it is otherwise expressly provided, be construed as a reference to a section in the Act.

(2) Expressions used in this Order which are used in the Act have the same meanings in this Order as in the Act.

Application for restraint order or charging order (O. 89B, r. 2).

2.—(1) An application for a restraint order under section 12 or for a charging order under section 13 (to either of which may be joined an application for the appointment of a receiver) may be made by the Public Prosecutor ex parte by summons.

(2) An application under paragraph (1) must be supported by an affidavit which must —

(a) state the grounds for believing that the defendant has derived benefits from drug trafficking;

(b) state, as the case may be —

(i) that proceedings have been instituted against the defendant for a drug trafficking offence (giving particulars of the offence) and that they have not been concluded;

(ii) that a person is to be charged with a drug trafficking offence;

(iii) that the defendant has been officially informed pursuant to section 122 (6) of the Criminal Procedure Code that he may be prosecuted for a drug trafficking offence; or

(iv) that after investigations for a drug trafficking offence have been commenced against the defendant, the defendant has died or cannot be found or is outside the jurisdiction;

(c) to the best of the deponent's ability, give full particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property; and

(d) where proceedings have not been instituted, indicate when it is intended that they should be instituted.

(3) A summons under paragraph (1) shall be entitled in the matter of the defendant, naming him, and in the matter of the Act, and all subsequent documents in the matter shall be so entitled.

(4) Unless the Court otherwise directs, an affidavit under paragraph (2) may contain statements of information or belief with the sources and grounds thereof.

Restraint and charging orders (O. 89B, r. 3).

3.—(1) A restraint order may be made subject to conditions and exceptions, including but not limited to conditions relating to the indemnifying of third parties against expenses incurred in complying with the order, and exceptions relating to living expenses and legal expenses of the defendant, but the Public Prosecutor shall not be required to give an undertaking to abide by any order as to damages sustained by the defendant as a result of the restraint order.

(2) Unless the Court otherwise directs, a restraint order made ex parte shall have effect until a day which shall be fixed for the hearing inter partes of the application and a charging order shall be an order to show cause, imposing the charge until such day.

(3) Where a restraint order is made, the Public Prosecutor must, unless the Court otherwise provides, serve copies of the order and of the affidavit in support on the defendant and on all other named persons restrained by the order and shall notify all other persons or bodies affected by the order of its terms.

(4) Where a charging order is made, the Public Prosecutor must, unless the court otherwise directs, serve copies of the order and of the affidavit in support on the defendant and, where property to which the order relates is held by another person, on that person and must serve a copy of the order on such of the persons or bodies specified in Order 50, Rule 2 (1), as shall be appropriate.

Discharge or variation of order (O. 89B, r. 4).

4.—(1) Any person or body on whom a restraint order or a charging order is served or who is notified of such an order may apply by summons to discharge or vary the order.

(2) The summons and any affidavit in support must be lodged with the Court and served on the Public Prosecutor and, where the defendant is not the applicant, on him, not less than two clear days before the date fixed for the hearing of the summons.

Further application (O. 89B, r. 5).

5.—(1) Where a restraint order or a charging order has been made, the Public Prosecutor may apply by summons or, where the case is one of urgency, *ex parte* —

- (a) to discharge or vary such order;
- (b) for a restraint order or a charging order in respect of other realisable property; or
- (c) for the appointment of a receiver.

(2) An application under paragraph (1) must be supported by an affidavit which, where the application is for a restraint order or a charging order, must to the best of the deponent's ability give full particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property.

(3) The summons and affidavit in support must be lodged with the Court and served on the defendant and, where one has been appointed in the matter, on the receiver, not less than two clear days before the date fixed for the hearing of the summons.

(4) Rule 3 (3) and (4) shall apply to the service of restraint orders and charging orders, respectively made under this Rule on persons other than the defendant.

Realisation of property (O. 89B, r. 6).

6.—(1) An application by the Public Prosecutor under section 15 must be made by summons.

(2) The summons must be served with the affidavit in support thereof not less than 7 days before the date fixed for the hearing of the summons on —

- (a) the defendant;
- (b) any person holding any interest in the realisable property to which the application relates; and
- (c) the receiver, where one has been appointed in the matter.

(3) The application must be supported by an affidavit, which must to the best of the deponent's ability give full particulars of the realisable property to which it relates and specify the person or persons holding such property, and a copy of the confiscation order, of any certificate issued by the Court under section 7 (2) and of any charging order made in the matter must be exhibited to such affidavit.

(4) The Court may, on an application under section 15, exercise the power conferred by section 16 (1) to direct the making of payments by the receiver.

Receivers (O. 89B, r. 7).

7.—(1) Subject to this Rule, Order 30, Rules 2 to 6, shall apply where the Public Trustee is appointed as receiver in pursuance of a charging order or under section 12 or 15.

(2) It shall not be necessary for an affidavit of fitness to be sworn or for the Public Trustee to give security, unless the Court otherwise orders.

(3) Where the Public Trustee has fully paid the amount payable under the confiscation order and any sums remain in his hands, he must apply by summons for directions as to the distribution of such sums.

(4) A summons under paragraph (3) must be served with an affidavit in support not less than 7 days before the date fixed for the hearing of the summons on —

(a) the defendant; and

(b) any other person who held property realised by the receiver.

Certificate of inadequacy (O. 89B, r. 8).

8.—(1) The defendant may apply by summons for a certificate under section 18 (1).

(2) A summons under paragraph (1) must be served with an affidavit in support not less than 7 days before the date fixed for the hearing of the summons on the Public Prosecutor and on the receiver, where one has been appointed in the matter.

Compensation (O. 89B, r. 9).

9. An application for an order under section 45 shall be made by summons, which shall be served, with any supporting evidence, on the person alleged to be in default and on the Public Prosecutor not less than 7 days before the date fixed for the hearing of the summons.

Disclosure of information (O. 89B, r. 10).

10.—(1) An application under section 40 shall be made by the Public Prosecutor by summons, which shall state the nature of the order sought and whether material sought to be disclosed is to be disclosed to a receiver appointed under section 12 or 15 or in pursuance of a charging order or to an authorised officer.

(2) The summons and affidavit in support shall be served on the public body —

(a) not less than 7 days before the date fixed for the hearing of the summons; and

(b) where the public body is a Government Department, in accordance with Order 73, rule 3.

(3) The affidavit in support of an application under paragraph (1) shall state the grounds for believing that the conditions in section 40 (4) and, if appropriate, section 40 (7) are fulfilled.

Exercise of powers under section 49 (O. 89B, r. 11).

11. The powers conferred on the Court by section 49 may be exercised by a Judge in Chambers.

Application for registration (O. 89B, r. 12).

12. An application for registration of an external confiscation order under section 49 (1) may be made ex parte by summons.

Evidence in support of application under section 49 (1) (O. 89B, r. 13).

13. An application for registration of an external confiscation order must be supported by an affidavit —

(a) exhibiting the order or a verified or certified or otherwise duly authenticated copy thereof and, where the order is not in the English language, a translation thereof into English certified by a notary public or authenticated by affidavit; and

(b) stating —

(i) that the order is in force and is not subject to appeal;

(ii) where the person against whom the order was made did not appear in the proceedings, that he received notice thereof in sufficient time to enable him to defend them;

(iii) in the case of money, either that at the date of the application the sum payable under the order has not been paid or the amount which remains unpaid, as may be appropriate, or, in the case of other property, the property which has not been recovered; and

(iv) to the best of the deponent's knowledge, particulars of what property the person against whom the order was made holds in Singapore, giving the source of the deponent's knowledge.

Register of orders (O. 89B, r. 14).

14.—(1) The Registrar shall keep a register of the orders registered under the Act.

(2) There shall be included in such register particulars of any variations or setting aside of a registration, of any variation, satisfaction or discharge of a registered order, and of any execution issued on such an order.

Notice of registration (O. 89B, r. 15).

15.—(1) Notice of the registration of an order must be served on the person against whom it was obtained by delivering it to him personally or by sending it to him at his usual or last known address or place of business or in such other manner as the Court may direct.

(2) Service of such a notice out of the jurisdiction is permissible in accordance with Order 11.

(3) The notice shall state the period within which an application may be made to vary or set aside the registration and that the order will not be enforced until after the expiration of that period.

Application to vary or set aside registration (O. 89B, r. 16).

16. An application to vary or set aside the registration of an order must be made by summons supported by affidavit.

Enforcement of order (O. 89B, r. 17).

17.—(1) An order registered under the Act shall not be enforced until after the expiration of the period specified in accordance with rule 15 (3) or, if that period has been extended by the Court, until after the expiration of the period so extended.

(2) If an application is made under rule 16, an order shall not be enforced until after such application is determined.

Variation, satisfaction and discharge of registered order (O. 89B, r. 18).

18. Upon the Court being notified by the applicant for registration that an order which has been registered has been varied, satisfied or discharged particulars of the variation, satisfaction or discharge, as the case may be, shall be entered in the register.

Rules to have effect subject to orders (O. 89B, r. 19).

19. Rules 11 to 18 shall have effect subject to the provisions of any order made under section 48.

Investigation into drug trafficking — discharge and variation of orders (O. 89B, r. 20).

20.—(1) An authorised officer shall make an application for an order under section 26 or under any provision of a written law referred to in section 30 ex parte by summons.

(2) An authorised officer may make an application for a warrant under section 31 or 32 ex parte by summons.

(3) Where an order under section 26 has been made, the person required to comply with it may apply to the Court for the order to be discharged or varied, and on hearing such an application the Court may discharge the order or make such variations to it as it thinks fit.

(4) Subject to paragraph (5), where a person proposes to make an application under paragraph (2) for the discharge or variation of an order, he shall give a copy of the application, not later than 48 hours before the making of the application, to the authorised officer by whom the application for an order was made, or if such officer is not known or cannot be found, to another authorised officer, together with a notice indicating the time and place at which the application for discharge or variation is to be made.

(5) The Court may direct that paragraph (4) need not be complied with if it is satisfied that the person making the application has good reason to seek a discharge or variation of the order as soon as possible and it is not practicable to comply with that paragraph.

Application for warrant under section 34 (O. 89B, r. 21).

21. The Attorney-General or a person duly appointed by him in writing shall make an application for a warrant under section 34 ex parte by summons.

ORDER 89C**EMPLOYMENT ACT****Application (O. 89C, r. 1).**

1. These Rules shall apply to proceedings under the Employment Act (Chapter 91) subject to the following Rules.

Orders of Commissioner for Labour (O. 89C, r. 2).

2. Where the Commissioner for Labour (referred to in this Order as the Commissioner) has made an order under the Employment Act and it is sought to enforce it in a District Court, he must send a certificate of the order and a request in Form 192B to the Court for the enforcement of the order.

Certificate of order (O. 89C, r. 3).

3.—(1) The certificate must state —

- (a) the number and title of the case in which the order was made;
- (b) the date of the order;
- (c) the name, occupation and address of every person ordered to pay any sum of money;
- (d) the amount ordered to be paid by such person;
- (e) the name, occupation and address of every person to whom any sum is ordered to be paid and the amount to be paid to each such person;
- (f) any other material terms or conditions of the order; and
- (g) the extent to which the order has been satisfied and the balance remaining due thereunder.

(2) Where the persons are numerous the particulars referred to in paragraph (1) may be set out in a schedule attached to the certificate.

(3) Where the order is that the amount is to be paid to the Commissioner for distribution among the persons, it shall be sufficient to state the name of each person and the amount to be paid on his account.

(4) The certificate must be sealed with the seal of the Commissioner and it must be dated and signed by him.

Registration of certificate (O. 89C, r. 4).

4.—(1) On receipt of the certificate, the registrar must record it in a register in Form 192C and assign it a serial number.

(2) The registrar must make a memorandum of the registration on the certificate and it must be filed.

Registered order enforceable as judgment (O. 89C, r. 5).

5. When the certificate of the order has been registered under Rule 4, the order may be enforced by the Court as if it were a judgment of the Court.

Title of proceedings (O. 89C, r. 6).

6. Any proceedings in respect of an order of the Commissioner which has been registered must be marked with the registered number of the certificate of the order and must be entitled as in Form 192D.

Payment of sums recovered (O. 89C, r. 7).

7. Unless the Commissioner otherwise orders, all sums of money recovered by the Court under the order, after payment of the costs, charges and expenses of enforcing the order, must be paid to the Commissioner.

ORDER 90**LODGMET IN COURT, MONEY IN THE REGISTRY AND
PAYMENT TO SHERIFF****Interpretation (O. 90, r. 1).****1. In this Order —**

“bank” means a bank approved by the Accountant-General;

“carry over”, in relation to a fund in Court, means to transfer the fund or any part thereof from one account to another in the books of the Accountant-General;

“funds” or “funds in Court” means any money, securities, or other investments standing or to be placed to the account of the Accountant-General, and includes money placed on deposit;

“interest” means the dividends and interest on funds;

“ledger credit” means the title of the cause or matter and the separate account opened or to be opened under an order or otherwise in the books of the Accountant-General to which any funds are credited or to be credited;

“lodge in Court” means pay or transfer into Court, or deposit in Court;

“order” means an order or judgment of a District Court or the High Court or Court of Appeal, whether made in Court or in Chambers, as the case may be.

LODGMET IN COURT**Payment into Court under Trustees Act (O. 90, r. 2).**

2.—(1) Subject to paragraph (2), any trustee wishing to make a payment into Court under section 65 of the Trustees Act (Chapter 337), must apply by summons supported by an affidavit setting out —

(a) a short description of the trust and of the instrument creating it or, as the case may be, of the circumstances in which the trust arose;

(b) the names of the persons interested in or entitled to the money or securities to be paid into Court with their addresses so far as known to him;

(c) his submission to answer all such inquiries relating to the application of such money or securities as the Court may make or direct; and

(d) an address where he may be served with any summons or order, or notice of any proceedings, relating to the money or securities paid into Court.

(2) Where the money or securities represents a legacy, or residue or any share thereof, to which an infant or a person resident outside Singapore is absolutely entitled, no affidavit need be filed under paragraph (1).

Notice of lodgment (O. 90, r. 3).

3. Any person who has lodged money or securities in Court must forthwith give notice of the lodgment to every person appearing to be entitled to, or to have an interest in, the money or securities lodged.

Funds how lodged (O. 90, r. 4).

4.—(1) Money to be lodged in Court must be lodged by means of a direction to the Accountant-General in Form 131 (a).

(2) Securities issued by a company or by any body corporate constituted under any written law, being fully paid up and free from liability, may be transferred to the Accountant-General in his official name.

(3) The person lodging under paragraph (2) must execute a transfer thereof, and send such transfer together with the authority in Form 193 to the registered office of the company or body corporate in whose books the securities are to be transferred.

(4) Such company or body corporate must, after registering such transfer, forward the authority to the Accountant-General with a certificate in Form 193, that the securities have been transferred as therein authorised.

(5) Securities, other than those described in paragraph (2), may be placed in a box or packet and lodged with a direction in Form 131 (a) with the Accountant-General.

(6) After inspecting the contents in the box or packet in the presence of the person lodging the same, and seeing that such box or packet is properly marked and secured, the Accountant-General shall receive the same and give the person lodging a receipt.

(7) The Accountant-General must, after receiving the money or securities, send to the Registrar a duplicate of the receipt that had been issued to the person lodging the same, to be filed in the Registry.

Crediting lodgment and dividends (O. 90, r. 5).

5. Any principal money or dividends received by the Accountant-General in respect of securities in Court must be placed in his books, in the case of principal money, to the credit to which the securities whereon such money arose were standing at the time of the receipt thereof, and in the case of dividends, to the credit to which the securities whereon such dividends accrued were standing at the time of closing of the transfer books of such securities previously to the dividends becoming due.

Interest on money lodged in court (O. 90, r. 6).

6.—(1) Money lodged in Court to the credit of any account shall be deemed to be placed on deposit, and shall be credited with interest at such rate as is from time to time fixed by the Minister for Finance, not being greater than the highest rate of interest which for the time being can be obtained by the Government on current account from any bank in the State except —

- (a) when money is paid into Court under Order 14, 22, 23 or 70; or
- (b) when the amount is less than \$100.

(2) Money on deposit shall be deemed to be withdrawn from deposit when the amount is reduced below \$100.

Computation of interest (O. 90, r. 7).

7.—(1) Interest upon money on deposit must not be computed on a fraction of \$1.

(2) Interest upon money on deposit accrues by calendar months, and must not be computed by any less period.

(3) Such interest begins on the first day of the calendar month next succeeding that in which the money is placed on deposit, and ceases from the last day of the calendar month next preceding the day of the withdrawal of the money from deposit.

(4) Interest which has accrued for or during the half-year ending on 30th day of June and 31st day of December in every year, on money then on deposit must, on or before the fifteen days of the months respectively following, be placed by the Accountant-General to the credit to which such money is standing on every such half-yearly day.

(5) When money on deposit is withdrawn from deposit, the interest thereon which has accrued and has not been credited must be placed to the credit to which the money is then standing.

(6) When money on deposit consists of sums which have been placed on deposit at different times, and an order is made dealing with the money, and part of such money has to be withdrawn from deposit for the purpose of executing such order, the part or parts of the money dealt with by such

order last placed and remaining on deposit at the time of such withdrawal must, for the purpose of computing interest, be treated as so withdrawn unless the order otherwise directs.

(7) Unless otherwise directed by an order, interest credited on money on deposit must, when or so soon as it amounts to or exceeds \$100, be placed on deposit and, for the purpose of computing interest upon it, must be treated as having been placed on deposit on the last half-yearly day on which any such interest became due.

Applications with respect to funds in Court (O. 90, r. 8).

8.—(1) Where an application to the Court —

- (a) for the payment or transfer to any person of any funds in Court standing to the credit of any cause or matter or for the transfer of any such funds to a separate account or for the payment to any person of any dividend of or interest on any securities or money comprised in such fund;
- (b) for the investment, or change of investment, of any funds in Court;
- (c) for payment of the dividends of or interest on any funds in Court representing or comprising money or securities lodged in Court under any written law; or
- (d) for the payment or transfer out of Court of any such funds as are mentioned in sub-paragraph (c),

is made, the application may be disposed of in Chambers.

(2) Subject to paragraph (3), any such application must be made by summons, and unless the application is made in a pending cause or matter or an application for the same purpose has previously been made by petition or originating summons, the summons must be an originating summons.

(3) Where an application under paragraph (1) (d) is required to be made by originating summons, then, if the funds to which the application relates do not exceed \$5,000 in value, and subject to paragraph (4), the application may be made to the Registrar.

(4) This Rule does not apply to any application for an order under Order 22.

Payment out of funds in Court (O. 90, r. 9)

9.—(1) Money paid into Court shall be paid out on a direction to the Accountant-General in Form 131 (b).

(2) When an order directs any sums to be ascertained by the certificate of the Registrar, both the order and the certificate in Form 131 (c) must be sent to the Accountant-General.

(3) When an order directs payments out of a fund in Court of any costs directed to be taxed, the Registrar must state in his certificate the name and address of the person to whom such costs are payable.

Name of payee to be stated in order (O. 90, r. 10).

10.—(1) Every order which directs funds in Court to be paid, transferred, or delivered out must state in full the name of every person to whom such payment, transfer, or delivery is to be made, unless the name is to be stated in a certificate of the Registrar.

(2) In the case of payment to a firm it is sufficient to state the business name of such firm.

(3) When money in Court is by an order directed to be paid to any persons described in the order, or in a certificate of the Registrar, as co-partners, such money may be paid to any one or more of such co-partners, or to the survivor of them.

Payment out on death of payee (O. 90, r. 11).

11.—(1) When funds in Court are by an order directed to be paid, transferred, or delivered to any person named or described in an order, or in a certificate of the Registrar, except to a person therein expressed to be entitled to such funds as trustee, executor, or administrator, or otherwise than in his own right, or for his own use, the funds, or any portion thereof for the time being remaining unpaid, untransferred, or undelivered, may, unless the order otherwise directs, on proof of the death of that person, whether on or after or, in the case of payment directed to be made to a creditor as such, before the date of such order, be paid, transferred, or delivered to the legal personal representatives of the deceased person, or to the survivor or survivors of them.

(2) If no administration has been taken out to the estate of such deceased person who has died intestate, and whose assets do not exceed the value of \$10,000, including the amount of the funds directed to be so paid, transferred or delivered to him, such funds may be paid, transferred, or delivered to the person who, being widower, widow, child, father, mother, brother or sister of the deceased, would be entitled to take administration to his or her estate, upon a declaration by such person in accordance with Form 194.

(3) When funds in Court are by an order directed to be paid, transferred, or delivered to any persons as legal personal representatives, such funds, or any portion thereof for the time being remaining unpaid, untransferred, or undelivered, may, upon proof of the death of any such representatives, whether on or after the date of such order, be paid, transferred, or delivered to the survivor or survivors of them.

(4) No funds shall under this Rule be paid, transferred, or delivered out of Court to the legal personal representatives of any person under any probate or letters of administration purporting to be granted at any time subsequent to the expiration of two years from the date of the order directing such payment, transfer, or delivery, or, in case such funds consist of interest or dividends, from the date of the last receipt of such interest or dividends or such order.

(5) When any application for an order such as is referred to in paragraphs (1) and (3) is made, notice thereof must be given to the Commissioner of Estate Duty who shall be entitled to attend and be heard on the matter.

Transfer or investment of funds in Court (O. 90, r. 12).

12.—(1) When funds in Court are by an order directed to be transferred or carried over, the party having the carriage of the order must lodge with the Accountant-General a copy of the order, and the Accountant-General must act in accordance with such order.

(2) When funds in Court are by an order directed to be invested, the party having the carriage of the order must lodge with the Accountant-General a copy of the order and the Accountant-General must thereupon invest such funds in the manner directed by the order.

(3) Subject to paragraph (4), the Court may direct that any money in Court, other than money under Orders 14, 22, 23 and 70, may be invested in any of the securities in which trustees are by law permitted to invest trust money in their hands, or it may order such money to be deposited in the Post Office Savings Bank of Singapore, provided that it exceeds \$10 and does not exceed the highest sum which may be deposited therein.

(4) The Court may direct that any money in Court under Order 70 may be placed on deposit with any bank or finance company in Singapore, provided that at the time of the making of the order, it exceeds the sum of \$250,000. Any application under this paragraph shall be served on the Sheriff.

Proof to Accountant-General before payment (O. 90, r. 13).

13. When any person is entitled under an order or direction to receive any payment from the Accountant-General, and the Accountant-General requires evidence of life, or of the fulfilment of any conditions affecting such payment, such evidence may be furnished by a statutory declaration made by a solicitor acting on behalf of such person, or by the person entitled to the payment.

Copy of order or certificate to be sent to Auditor-General (O. 90, r. 14).

14. An office copy of every order of Court and certificate to be acted upon by the Accountant-General, and of every direction to the Accountant-General, must be forwarded by the Registrar to the Auditor-General.

Accountant-General to give certificate of funds in Court (O. 90, r. 15).

15.—(1) The Accountant-General, upon a request signed by or on behalf of a person claiming to be interested in any funds in Court standing to the credit of an account specified in such request, must, unless there is good reason for refusing, issue a certificate of the amount and description of such funds. Such certificate shall have reference to the morning of the day of the date thereof, and shall not include the transactions of that day.

(2) The Accountant-General must notify on such certificate the dates of any orders restraining the transfer, sale, delivery out, or payment or other dealing with the funds in Court to the credit of the account mentioned in such certificate, and whether such orders affect principal or interest, and any charging orders affecting such funds, of which respectively he has received notice and the names of persons to whom notice is to be given, or in whose favour such restraining or charging orders have been made.

(3) The Accountant-General may re-date any such certificate, provided that no alteration in the amount or description of funds has been made since the certificate was issued.

(4) When a cause or matter has been inserted in the list referred to in Rule 16, that fact shall be notified in the certificate relating thereto.

Publication of list of funds in Court (O. 90, r. 16).

16. In the month of January in every year the Accountant-General shall cause to be published in the Gazette a list of accounts not dealt with for a period of 10 years or more and must give the title and number of the cause or matter and the title of the ledger credit in which funds are outstanding, and the balance of the funds in each account.

Unclaimed funds in Court with Accountant-General (O. 90, r. 17).

17.—(1) The funds in Court or in the Sheriff's account appearing from the books and accounts to have been in the custody of the Accountant-General or the Sheriff for a period of 15 years and upwards, without any claim having been made and allowed thereto during that period, must be transferred and paid to the Government for the general purposes of the State.

(2) If any claim is made to any part of the funds in Court or in the Sheriff's account which are transferred and paid to the Government under paragraph (1), and if such claim is established to the satisfaction of the Court, the Government must pay to the claimant the amount of the

principal so transferred and paid as aforesaid, or so much thereof as appears to be due to the claimant.

(3) Nothing in this Rule shall authorise the transfer of any funds in Court or in the Sheriff's account standing to the separate credit of an infant, or held in an infant's account pending the coming of age of such infant, until such infant comes of age or dies.

PAYMENT TO SHERIFF

Sheriff to keep an account book (O. 90, r. 18).

18.—(1) The Sheriff must keep an account of all sums of money paid or deposited with him and of all sums of money paid out by him in an account book in Form 195.

(2) All money paid or deposited with the Sheriff must be kept in a bank or with the Accountant-General.

(3) No interest shall be payable in respect of any money paid or deposited with the Sheriff.

How money paid to Sheriff (O. 90, r. 19).

19. Money paid or deposited with the Sheriff under these Rules or a judgment or order of a Court must be paid to the proper officer in the Registry who must give a receipt for every sum of money received by him.

Payment under judgment or order (O. 90, r. 20).

20. Where any payment is made under a judgment or order the person making the payment must produce a copy of the judgment or order and he must give notice to the person entitled to the money.

Money not required for making payments on day of receipt (O. 90, r. 21).

21. Any money paid or deposited with the Sheriff that is not required for making payments on that day must be paid into the bank or to the Accountant-General, as the case may be:

Provided that where the payment to the bank or to the Accountant-General, as the case may be, cannot be made on the day of receipt, it must be made on the morning of the next working day.

Accountant-General to grant an imprest (O. 90, r. 22).

22.—(1) Where the money is kept by the Accountant-General, he must grant an imprest to the Sheriff and the imprest must be kept by the Sheriff in a bank.

(2) All cheques in respect of the bank account must be signed by the Sheriff and another officer appointed by the Registrar of the Supreme Court or the Senior District Judge, as the case may be.

Cash book for imprest (O. 90, r. 23).

23.—(1) The Sheriff operating the imprest must maintain a cash book in which must be entered all sums received under the imprest (including reimbursements from the Accountant-General) and all payments made from the imprest.

(2) A supervisory officer must be made personally responsible for making (at least once a week) surprise checks of the cash book, for comparing all the entries with receipted vouchers and other relevant documents and for ensuring that the balance of cash agrees with the balance shown in the cash book, and the officer must also satisfy himself that cash is not drawn from the bank in excess of normal requirements.

(3) A record of all surprise inspections must be made in the cash book.

How payments from imprest to be made (O. 90, r. 24).

24.—(1) All payments from the imprest must be made by cheque and an acknowledgment received or a receipt obtained from the person to whom the cheque is paid.

(2) When the balance of the imprest reaches a figure sufficient for 7 days' anticipated requirements, the cash book must be balanced and the sums paid from the imprest recovered from the Accountant-General.

(3) The receipts must be attached to a bill showing the total amount of the payments; if the receipts are numerous, the receipts and a machine-list of the amounts only may be attached to the bill.

(4) This bill and attachments must be sent to the Accountant-General at least 7 days before the money is actually required.

Proof before payment out (O. 90, r. 25).

25. Before any money is paid out to any person, the Sheriff must require proof to his satisfaction that the person applying for payment is the person entitled or authorised to receive it.

Where money due to Government under any law (O. 90, r. 26).

26. Before any money is paid out under any order directing the payment out of any money paid or deposited with the Sheriff, the Sheriff must satisfy himself that any money due to the Government under any written law of which he has notice has been paid or deducted.

When payment to be made by cheque (O. 90, r. 27).

27.—(1) All payments by the Sheriff of an amount exceeding \$50 must be made by cheque payable to the person entitled to receive the payment and marked “payable only within 30 days from date”.

(2) If the payment is to be made to —

- (a) any Government department;
- (b) any body corporate;
- (c) an advocate and solicitor; or
- (d) a moneylender under the Moneylenders Act,

the cheque must be crossed to the payee’s account and marked “not negotiable”.

(3) Where a cheque has not been cashed within 30 days of its date, a fresh cheque may be issued to replace it.

Instalments ledger (O. 90, r. 28).

28.—(1) Whenever a judgment or order has been made in the Subordinate Courts for payment of money by instalments, unless the Court orders that the instalments shall be paid otherwise than in Court, the registrar must cause to be opened an account wherein must be entered all sums paid into Court under the judgment or order and all sums paid out of court to the judgment creditor or on his account.

(2) The account shall be in Form 196.

ORDER 90A**HEARING FEES****Hearing fees in the Courts (O. 90A, r. 1).**

1.—(1) The following fees shall be payable for any cause or matter for hearing before the Court in open court, including interlocutory applications fixed for hearing in open court on special hearing dates:

	FEES		<i>Document on which the stamp is to be affixed</i>
	<i>District Court</i>	<i>Magistrate Court</i>	
	\$	\$	
For each day or part thereof after the first day	500	250	Praecipe.

	<i>High Court</i>	<i>Document on which the stamp is to be affixed</i>
	\$	
(a) For each day or part thereof of the second to fifth days	1,500	Praecepte.
(b) For each day or part thereof of the sixth to tenth days	2,000	Praecepte.
(c) For each day or part thereof subsequent to the above	3,000	Praecepte.

(2) The plaintiff, the appellant or the applicant, as the case may be, must pay the fees and file the praecipe, in Form 63A, at the time of setting down for hearing, or at the time he files the record of appeal, or at the time he files his request for special or further hearing dates, as the case may be.

(3) The Registrar may, in any case, waive or defer the payment of the whole or any part of the fees on such terms and conditions as he deems fit.

(4) The Registrar —

(a) shall refund the whole of the fees paid if he is notified in writing not later than 14 days before the first date fixed for hearing that the cause or matter has been settled or discontinued; and

(b) may, in any other case, as he deems fit, refund the whole or any part of the fees paid.

(5) Any party requesting a refund of the whole or any part of the fees, pursuant to paragraph (4) (b), must make a written request to the Registrar within one month from the date of settlement or discontinuance, or from the last hearing date, whichever is later.

(6) Order 3, Rule 5 shall not apply to paragraph (5).

Hearing fee in the Court of Appeal (O. 90A, r. 2).

2.—(1) The following fee shall be payable for appeals or any other hearing before the Court of Appeal:

	<i>Fee</i>	<i>Document on which the stamp is to be affixed</i>
	\$	
For each day or part thereof subsequent to the first day	3,000	Praecepte.

(2) The appellant or the applicant must pay the fee and file the praecipe, in Form 118A, within 14 days after he files his Case or at the time he files the application, or before the second or each subsequent day of hearing, as the case may be.

(3) The Registrar may, in any case, waive or defer the payment of the whole or any part of the fee on such terms and conditions as he deems fit.

(4) The Registrar —

(a) shall refund the whole of the fee paid if the appeal is deemed to have been withdrawn under Order 57; and

(b) may, in any other case, as he deems fit, refund the whole or any part of the fee paid.

(5) Any party requesting a refund of the whole or any part of the fee, pursuant to paragraph (4) (b), must make a written request to the Registrar within one month from the date of withdrawal of the appeal or application or from the last hearing date, whichever is the later.

(6) Order 3, Rule 5 shall not apply to paragraph (5).

No hearing fee for some proceedings (O. 90A, r. 3).

3. This Order shall not apply to —

(a) actions for damages for death or personal injuries; or

(b) any cause or matter under the following Acts and appeals therein:

(i) Adoption of Children Act (Chapter 4);

(ii) Guardianship of Infants Act (Chapter 122);

(iii) Inheritance (Family Provision) Act (Chapter 138);

(iv) Maintenance of Parents Act 1995 (Act 35 of 1995);

(v) Mental Disorders and Treatment Act (Chapter 178);
and

(vi) Women's Charter (Chapter 353).

(c) any application for a writ of *habeas corpus ad subjiciendum* and appeals therein;

(d) any appeal or application by a regulatory body of a profession constituted under the following Acts in disciplinary proceedings:

(i) Accountants Act (Chapter 2A);

(ii) Architects Act (Chapter 12);

(iii) Dentists Act (Chapter 76);

(iv) Land Surveyors Act (Chapter 156);

(v) Legal Profession Act (Chapter 161);

- (vi) Medical Registration Act (Chapter 174);
- (vii) Nurses and Midwives Act (Chapter 209);
- (viii) Pharmacists Registration Act (Chapter 230); and
- (ix) Professional Engineers Act (Chapter 253).

Hearing fee payable for winding up petitions (O. 90A, r. 4).

4. Notwithstanding Order 1, Rule 2 (2), this Order shall apply to proceedings relating to the winding up of companies where such proceedings are fixed for hearing in open Court on special hearing dates, and to appeals therein.

Powers of Registrar and Court concerning hearing fees O. 90A, r. 5).

5.—(1) The Registrar may, at any stage of any proceedings or after the conclusion of any such proceedings, including appeals and other matters before the Court of Appeal, direct that the hearing fees be paid by any party or be apportioned among all or any of the parties.

(2) The Registrar may make such order as he deems fit to secure compliance with any provision of this Order or any direction made under paragraph (1), including giving judgment on or dismissing any claim or counterclaim and may refer any question pertaining to hearing fees in an appeal or matter pending before the Court of Appeal to that court.

(3) The court or the Court of Appeal, as the case may be, may exercise the powers of the Registrar in paragraphs (1) and (2).

Review of Registrar's decision (O. 90A, r. 6).

6.—(1) Any party who is dissatisfied with any decision of the Registrar made under this Order may apply to a Judge of the High Court or a District Judge, as the case may be, for a review of that decision.

(2) An application under this Rule shall be made by summons supported by an affidavit, within 14 days of that decision.

ORDER 91

COURT FEES

Court fees (O. 91, r. 1).

1. The fees and percentages in Appendix B to these Rules shall be taken and paid in all causes and matters in the Supreme Court and the Subordinate Courts;

Provided that nothing herein shall affect any fees fixed by any written law not by these Rules expressly or impliedly repealed.

Manner of payment of fees (O. 91, r. 2).

2. The fees and percentages to be taken and paid under this Order shall be collected in such manner as the Chief Justice or the Senior District Judge, with the concurrence of the Chief Justice, as the case may be, may from time to time direct.

Refund of fees paid for unused documents (O. 91, r. 3).

3.—(1) The Registrar may, if he thinks fit, refund any fee or part thereof which has been paid for any unused document.

(2) Every application under this Rule for the refund of any fee must be made —

(a) by praecipe signed by the applicant or his solicitor; and

(b) within 3 months after the date of the payment of the fee to be refunded.

(3) Where a refund of the fees paid for more than one unused document is being sought, a separate application must be made for the refund of the fee paid for each such unused document.

(4) Where an application under this Rule for the refund of any fee is not approved, the fee paid for the praecipe shall not be refundable.

ORDER 92**MISCELLANEOUS****Language of documents (O. 92, r. 1).**

1. Every document if not in the English language must be accompanied by a translation thereof certified by a court interpreter or a translation verified by the affidavit of a person qualified to translate it before it may be received, filed or used in the Court.

Seal of Court (O. 92, r. 2).

2. Every document issued by the Registry for which a Form marked with the word “seal” as prescribed in Appendix A to these Rules must bear the seal of the Court.

Compliance with Court Practice Directions (O. 92, r. 2A)

2A. Every document must comply with such requirements and contain such information and particulars of parties or other persons as may be laid down by or specified in any practice directions for the time being issued by the Registrar.

Rejection of earlier documents (O. 92, r. 3).

3.—(1) The Registrar, or any officer charged with the duty of receiving and filing any document, may reject it if it does not comply with these Rules or with any practice directions issued.

(2) A document rejected under paragraph (1) shall be treated as having been filed only on the date on which it is subsequently accepted for filing by the Registrar, or any officer charged with the duty of receiving and filing any document, and not before.

Inherent powers of Court (O. 92, r. 4).

4. For the removal of doubt it is hereby declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court.

Further orders or directions (O. 92, r. 5).

5. Without prejudice to Rule 4, the Court may make or give such further orders or directions incidental or consequential to any judgment or order as may be necessary in any case.

FORMS

1.

O. 4, r. 1.

ORDER FOR CONSOLIDATION

(Title as in action)

Upon the application of the plaintiff (or the defendant) in this
 action and upon reading the affidavit of filed the
 day of 19 , and upon hearing

It is ordered that summons No. be consolidated with summons
 No. and do proceed as one action and it is further ordered that the title
 of summons No. be amended by adding to it the titles of (state the
 numbers of the summons which are being consolidated). (state any other orders
 or directions given by the Court).

Dated this day of 19 .

(Seal)

Registrar.

2.

O. 6, r. 1.

WRIT OF SUMMONS

IN THE HIGH COURT/SUBORDINATE COURTS
 OF THE REPUBLIC OF SINGAPORE

Suit No. of 19 .

(Seal)

Between

Plaintiff(s)

And

Defendant(s)

To THE DEFENDANT(S) [name]

of [address]

THIS WRIT OF SUMMONS has been issued against you by the abovenamed Plaintiff(s) in respect of the claim endorsed herein. Within days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or cause an appearance to be entered for you and in default of your so doing the Plaintiff(s) may proceed with the action and judgment may be entered against you without further notice.

Dated this day of 19 .

Solicitor for the Plaintiff(s).

*Registrar
Supreme Court/Subordinate Courts,
Singapore.*

(Note: If any defendant is outside the jurisdiction, a separate period of time for entering appearance must be inserted.)

Memorandum to be subscribed on the writ

This writ may not be served more than 6 calendar months after the above date unless renewed by order of the Court.

The defendant(s) may enter an appearance(s) either personally or by a solicitor at the Registry of the Supreme Court/Subordinate Courts.

Endorsements to be made on writ before issue.

Endorsement of claim/statement of claim.

(Set out the endorsement or statement of claim).

(If the plaintiff's claim is for a debt or liquidated demand only, the following endorsement must be added at the foot of the claim:)

And \$ (or such sum as may be allowed on taxation) for costs, and also, if the plaintiff obtains an order for substituted service, the further sum of \$ (or such sum as may be allowed on taxation). If the amount claimed and costs be paid to the plaintiff or his solicitor within days after service hereof (inclusive of the day of service), further proceedings will be stayed.

Where the Writ of Summons is endorsed with a Statement of Claim the following must be added:

Note: If the defendant enters an appearance, then, unless a summons for judgment is served on him in the meantime, he must also serve a defence on the solicitor for the plaintiff within 14 days after the last day of the time limited for entering an appearance, otherwise judgment may be entered against him without further notice.

(If the plaintiff sues, or the defendant is sued, in a representative capacity, this must be stated in the endorsement of claim).

Endorsement as to solicitor and address.

This writ is issued by _____ of _____ solicitor for the said plaintiff whose address is _____ (or where the plaintiff sues in person). This writ is issued by the said plaintiff who resides at _____ and is (state occupation) and (if the plaintiff does not reside within the jurisdiction) whose address for service is _____

Endorsement as to service

This writ was served by _____ by way of personal service (or as may be) (state manner of service or in accordance with the terms of an order for substituted service) on the defendant (who is known to me) (or who was pointed out to me by _____) (or who admitted to me that he was _____) at (place) on the _____ day of _____ 19 ____.

Endorsed this _____ day of _____ 19 ____.

Process Server.

[Forms 2A and 3 deleted by G.N. No. S 532/91 and G.N. No. S 113/92]

4.

NOTICE OF PAYMENT INTO COURT:
EXCHANGE CONTROL ACT

[Deleted]

5.

O. 6, r. 4
and
O. 46, r. 6.

NOTICE OF RENEWAL OF WRIT

Renewed for _____ months from the _____ day of _____ 19 ____ by an order of Court dated the _____ day of _____ 19 ____.

Dated this _____ day of _____ 19 ____.

Solicitor for the

6.

O. 7, r. 2.

ORIGINATING SUMMONS
(WHERE APPEARANCE REQUIRED)

IN THE HIGH COURT/SUBORDINATE COURTS
OF THE REPUBLIC OF SINGAPORE

O.S. No.)
)
of 19)
(Seal).
(In the matter of)

Between

Plaintiff.

and

Defendant.

To:

Let the defendant, within 8 days (or if the summons is to be served out of the jurisdiction, insert the time for appearance fixed by the order giving leave to issue the summons and serve it out of the jurisdiction) after service of this summons on him, inclusive of the day of service, cause an appearance to be entered to this summons, which is issued on the application of the plaintiff of

By this summons the plaintiff claims against the defendant (or seeks the determination of the Court on the following questions, namely or as may be).

If the defendant does not enter an appearance, such judgment may be given or order made against or in relation to him as the Court may think just and expedient.

Dated this day of 19 .

Registrar.

Memorandum to be subscribed on the summons.

This summons is taken out by of solicitor for the said plaintiff whose address is .
(or where the plaintiff sues in person) This summons is taken out by the said plaintiff who resides at the abovenamed address (or as may be) and is (state occupation) and (if the plaintiff does not reside within the jurisdiction) whose address for service is

Note: This summons may not be served more than 6 calendar months after the above date unless renewed by order of the Court.

7.

O. 7, r. 2.

ORIGINATING SUMMONS
(WHERE APPEARANCE NOT REQUIRED)

IN THE HIGH COURT/SUBORDINATE COURTS
OF THE REPUBLIC OF SINGAPORE

O.S. No.)
 of 19)
 (Seal).)
 (In the matter of)

Between

Plaintiff.

and

Defendant.

Let of attend before the Judge
 (or Registrar) in Chambers on the day of 19 ,
 at m., on the hearing of an application by the plaintiff that

Dated this day of 19 .

Registrar.

Memorandum to be subscribed on the summons.

This summons is taken out by of solicitor for
 the said plaintiff whose address is .
 (or where the plaintiff sues in person) This summons is taken out by the said
 plaintiff who resides at and is (state occupation) and
 (if the plaintiff does not reside within the jurisdiction) whose address for service is

Note: This summons may not be served more than 6 calendar months after the
 above unless renewed by order of the Court.

If a defendant does not attend personally or by his counsel or solicitor at the
 time and place abovementioned such order will be made as the Court may think just
 and expedient.

O. 7, r. 2.

O.S. No. _____)
of 19 _____.)
(Seal).

Let all parties concerned attend before the Judge (or Registrar) in Chambers on the day of 19 , at m., on the hearing of an application by that .

Dated this day of 19

Registrar.

This summons is taken out by _____ of
solicitor for the applicant whose address is _____

О. 81, г. 3.

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Originating Summons)
No. of)
(Seal)

In the matter of

Between

Plaintiff

And

Defendant (if any
whose name is
known to the
Plaintiff)

To [] of (name and address of known defendant)
and every [other] person in occupation of [] .

Let all persons concerned attend before the in Chambers on , the day of 19 at o'clock, on the hearing of an application by for an order that he do recover possession of on the ground that he is entitled to possession and that the person(s) in occupation is (are) in occupation without licence or consent.

Dated the day of 19 .

Memorandum to be subscribed on the summons

This summons is taken out by of solicitor for the said plaintiff whose address is . (or where the plaintiff sues in person) This summons is taken out by the said plaintiff who resides at and is (state occupation) and (if the plaintiff does not reside within the jurisdiction) whose address for service is .

Note: This summons may not be served more than 6 calendar months after the above date unless renewed by order of the Court.

Note: Any person occupying the premises who is not named as a defendant by this summons may apply to the Court personally or by solicitor to be joined as a defendant. If a person occupying the premises does not attend personally or by solicitor at the time and place abovementioned, such order will be made as the Court may think just and expedient.

9.

O. 8, r. 3. NOTICE OF ORIGINATING MOTION

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

O.M. No.)
of 19 .)
(Seal).

In the matter of

and

In the matter of

Take notice that the Court will be moved at the expiration of days from the service upon you of this notice (or on the day of 19 , at the sitting of the Court) or so soon thereafter as counsel can be heard, by counsel on behalf of for an order that (or for the following relief, namely).

(And further take notice that the grounds of this application are (state the ground)).

Solicitor for the

solicitor for the abovenamed applicant
whose address is
(or) whose address for service is

To

10.

O. 8, r. 3.

NOTICE OF MOTION

(Title as in action)

Take notice that (pursuant to the leave of _____ given on the day of _____ 19____) the Court will be moved on _____ the day of _____ 19____, at _____ m., or so soon thereafter as counsel can be heard, by (Mr. _____ of _____) counsel for the abovenamed plaintiff (or defendant) that _____ and that the costs of the application be _____.

Dated this day of 19 .

Solicitor for the

To solicitor for the

12.

O. 11, r. 2.

**AFFIDAVIT FOR LEAVE TO SERVE
ORIGINATING PROCESS OUT OF SINGAPORE**

(Title as in action)

I, (name, address and description of deponent), do make oath (or affirm) and say as follows:

1. I am the plaintiff (or as may be) in this action.
2. This application is made pursuant to Order 11, Rule 1 (specify the paragraphs).
3. The facts in support of paragraph 2 are
4. I verily believe that I have a good cause of action against the above-named defendant (state the facts, or refer to the Statement of Claim filed, or exhibit a copy of the proposed Statement of Claim, or refer to the originating process and any affidavits filed therein).
5. The defendant is presently residing (or carrying on business) at
in the State of .
6. days will probably be sufficient for the defendant to enter an appearance in the Registry of the Supreme Court/Subordinate Courts.
7. I apply for leave to serve the writ (or as may be) on the defendant at or elsewhere as he may be found in the State of .

Sworn (or affirmed) as in Form 78.

13.

O. 11, r. 2.

**ORDER FOR SERVICE OF DOCUMENT
OUT OF SINGAPORE**

(Title as in action)

Upon the application of the plaintiff and upon reading the affidavit of filed the day of 19 and upon hearing , .

IT IS ORDERED THAT:

1. The plaintiff have leave to serve a sealed copy of the writ of summons on the defendant at (address at which defendant to be served) or elsewhere in the State of .

2. The time for entry of an appearance in this action by the defendant be days after service on him of the writ of summons (or as may be), inclusive of the day of service.

Dated this day of 19 .

(Seal)

Registrar.

14.

O. 11, r. 4.

REQUEST FOR SERVICE OF DOCUMENT
OUT OF SINGAPORE

(Title as in action)

We hereby request that the writ of summons (or as may be, describing the document) in this action be sent through the proper channel to (name of country) for service on the (defendant) , at or elsewhere in (name of country) and that it may be served —

- (i) through the government of (where the government is willing to effect service)
- (ii) through the judicial authority of .
- (iii) through a Singapore consular authority at .
(delete which methods not desired)

We hereby undertake to be responsible personally for all expenses incurred by the Minister in respect of the service requested and, on receiving due notification of the amount of those expenses, to pay that amount to the office of the said Minister and to produce a receipt for the payment to the proper officer in the Registry.

Dated this day of 19 .

Solicitors for the

15.

O. 12, r. 2.

MEMORANDUM OF APPEARANCE

(Title as in action)

To the Registrar.

Enter appearance for (name of defendant) in this action.

Dated this day of 19 .

Solicitor for the defendant.

The place of business of (name of solicitor for the defendant) is .

His address for service is (or defendant in person).

The address of (name of defendant) is .

His address for service is .

The said defendant (requires or does not require) a statement of claim to be filed and delivered.

[Form 16 deleted by G.N. No. S 532/91 and G.N. No. S 113/92]

17.

O. 13, r. 7.

CERTIFICATE OF NON-APPEARANCE

(Title as in action)

An affidavit of service of (describe document) on the (name of person served)
 at on the day of 19 , having
 been filed this day of 19 .

IT IS HEREBY CERTIFIED that no appearance has been entered for the
 said (name of person served).

Dated this day of 19 .

Registrar.

[Form 18 deleted by G.N. No. S 281/91 and G.N. No. S 59/92]

19.

O. 15, r. 3.

**NOTICE TO BE ENDORSED ON COPY
OF COUNTERCLAIM**

To

Take notice that, if you intend to defend this counterclaim, an appearance must be entered to the counterclaim on your behalf within 8 days (or if the counterclaim is to be served out of the jurisdiction insert here the time fixed by the order giving leave to serve the counterclaim out of the jurisdiction) after the service of this defence and counterclaim on you, inclusive of the day of service, otherwise judgment may be given against you without further notice.

Directions for entering appearance.

The person served with this counterclaim may enter an appearance in person or by a solicitor by handing in the appropriate forms, duly completed, at the Registry of the Supreme Court/Subordinate Courts.

20.

O. 15, r. 3.

**MEMORANDUM OF APPEARANCE
TO COUNTERCLAIM**

(As in Form 15 but substituting for the title of the
action the following:)

Between

Plaintiff

And

Defendant

(by original action)

And between

the said

Plaintiff

and

the said

Defendant

(by counterclaim)

(and substituting for the request to enter appearance the following:)

Enter an appearance for (name of defendant to counterclaim wishing to appear) to the counterclaim of the abovenamed defendant in this action.

21.

O. 15, r. 8. **MEMORANDUM OF APPEARANCE OF PERSON
ADDED AS DEFENDANT**

(As in Form 15 but substituting for the title of the
action the following:)

Between

Plaintiff

And

Defendant

And

Between

Plaintiff

And

Defendant

(By original writ and by order)

(and substituting for the request to enter appearance the following:)

Enter an appearance for (name of added defendant) who has been served with
an order dated the day of 19 making him a defendant to
the action.

21A.

O. 15, r. 13A.

NOTICE OF ACTION
(title as in action)

To of

TAKE NOTICE THAT:

(1) An action has been begun in the High Court/Subordinate Courts in
accordance with the writ of summons/originating summons attached hereto.

(2) You are or may be one of the persons who is interested in the estate/trust
property to which the action relates.

(3) You may within 14 days after service of this notice enter an appearance
and thereby become a party to the action.

Take notice that this action has been brought by the plaintiff against the defendant. In it the plaintiff claims against the defendant (state the nature of the plaintiff's claim) as appears from the writ of summons (or originating summons) a copy whereof is served herewith (together with a copy of the statement of claim).

The defendant claims against you (state the nature of the claim against the third party as for instance to be indemnified against the plaintiff's claim and the costs of this action or contribution to the extent of (one half) of the plaintiff's claim or the following relief or remedy namely on the grounds that (state the grounds of the claim)).

And take notice that if you wish to dispute the plaintiff's claim against the defendant, or the defendant's claim against you, an appearance must be entered on your behalf within 8 days (or if the notice is to be served out of the jurisdiction insert the time for appearance fixed by the order giving leave to issue the notice and serve it out of the jurisdiction) after the service of this notice on you, inclusive of the day of service, otherwise you will be deemed to admit the plaintiff's claim against the defendant and the defendant's against you and your liability to (indemnify the defendant or to contribute to the extent claimed or to _____ stating the relief or remedy sought) and will be bound by any judgment or decision given in the action, and the judgment may be enforced against you in accordance with Order 16 of the Rules of the Court.

Dated this _____ day of _____ 19 ____.

Solicitor for the defendant.

Directions for entering appearance.

The person served with this notice may enter an appearance in person or by a solicitor by handing in the appropriate forms, duly completed, at the Registry of the Supreme Court/Subordinate Courts.

23.

O. 16, r. 1. **THIRD PARTY NOTICE WHERE QUESTION
OR ISSUE TO BE DETERMINED**

(Title etc., as in Form 22 down to end of first paragraph)

The defendant requires that the following question or issue, viz., (state the question or issue required to be determined) should be determined not only as between the plaintiff and the defendant but also as between either or both of them and yourself.

And take notice that if you wish to be heard on the said question or issue or to dispute the defendant's liability to the plaintiff or your liability to the defendant, an appearance must be entered on your behalf within 8 days (or if the notice is to be served out of the jurisdiction, insert the time for appearance fixed by the order giving leave to issue the notice and serve it out of the jurisdiction) after the service of this notice on you, inclusive of the day of service, otherwise you will be bound

by any judgment or decision given in the action in so far as it is relevant to the said question or issue, and the judgment may be enforced against you in accordance with Order 16 of the Rules of Court.

Dated this day of 19 .

Solicitor for the defendant.

Directions for entering appearance.

(As in Form 22).

24.

O. 16, r. 2.

SUMMONS FOR LEAVE TO ISSUE A THIRD PARTY NOTICE

(Title as in action)

Let all parties concerned attend before the Judge (or Registrar) in Chambers on _____, the _____ day of _____ 19____, at _____ m. for leave to issue a third party notice a copy of which is attached herewith.

Dated this day of 19 .

Entered No. of 19
Clerk.

(Seal)

Registrar.

This summons is taken out by the defendant (or solicitor for the defendant) of

To:

25.

O. 16, r. 4.

**MEMORANDUM OF APPEARANCE
OF THIRD PARTY**

(As in Form 15 but substituting for the title of the action, the title on the third party notice and substituting for the request to enter appearance the following:)

Enter an appearance for (name of third party) to the third party notice issued in this action on 19 by the defendant and served on the said
on 19 .

26.

O. 16, r. 4

SUMMONS FOR THIRD PARTY DIRECTIONS

(Title as in Form 22)

Let all parties concerned attend before the Judge (or Registrar) in Chambers on the day of 19 at m. on the hearing of an application on the part of for an order for third party directions, as follows:

that the defendant serve a statement of his claim on the said third party within days from this date, who shall plead thereto within days.

(State any other directions that may be required).

And that the said third party be at liberty to appear at the trial of this action, and take such part as the Judge shall direct, and be bound by the result of the trial.

And that the question of the liability of the said third party to indemnify the defendant be tried at the trial of this action, but subsequent thereto.

And that the costs of this application be costs in the cause and in the third party proceedings.

Dated this day of 19 .

Entered No. of 19 .
Clerk.

(Seal)

Registrar.

This summons is taken out by the defendant (or solicitor for the defendant or as may be) of

To:

27.

O. 16, r. 4

ORDER FOR THIRD PARTY DIRECTIONS

(Title as in Form 22)

Upon the application of _____ and upon hearing _____ for the
 plaintiff and _____ for the defendant and for the third party

It is ordered that the defendant serve a statement of his claim on the said third
 party within _____ days from this date, who will plead thereto within _____ days.
 (State any other directions that had been ordered).

And that the said third party be at liberty to appear at the trial of this action,
 and take such part as the Judge shall direct, and be bound by the result of the trial.
 And that the question of the liability of the said third party to indemnify the
 defendant be tried at the trial of this action, but subsequent thereto.

And that the costs of this application be

Dated this _____ day of _____ 19 ____ .

(Seal)

Registrar.

28.

O. 17, r. 2

**NOTICE BY CLAIMANT OF PROPERTY
TAKEN IN EXECUTION**

(Title as in action)

And

Claimant

Take notice that I _____ of _____ claim the following property
 that has been taken in execution in this action at (state address) on the _____ day
 of _____ 19 ____ :

(State the money, goods or other movable property claimed and the grounds
 for the claim).

Dated this _____ day of _____ 19 ____ .

Claimant.

My address for service is:

To the Sheriff/bailiff and the execution creditor (or solicitor for execution creditor).

29.

O. 17, r. 2 **NOTICE BY SHERIFF/BAILIFF OF PROPERTY
TAKEN IN EXECUTION**

(Title as in Form 28)

Take notice that of has claimed the following
property (specify the property claimed)
taken in execution by me under the writ of seizure and sale issued in this action.

If within 4 days after receiving this notice, you give notice to me that you admit
the claim of the said to the said property or request me
to withdraw from possession in Form 30 you will not be liable for any costs incurred
after the receipt by me of your notice.

Dated this day of 19 .

Sheriff/bailiff.

To the execution creditor (or solicitor for execution creditor).

30.

O. 17, r. 2 **NOTICE BY EXECUTION CREDITOR OF
PROPERTY TAKEN IN EXECUTION**

(Title as in Form 28)

Take notice that I admit (or dispute) the claim of to the
property seized by you (or I request you to withdraw from possession) under the
writ of seizure and sale issued in this action.

Dated this day of 19 .

*Execution Creditor
(or solicitor for execution creditor).*

To the Sheriff/bailiff and the claimant (or solicitor for the claimant).

**O.17, r.3 APPLICATION FOR AN INTERPLEADER SUMMONS:
BY SHERIFF/BAILIFF**

O. 17, r. 3 **APPLICATION TO INTERPLEAD BY
A PERSON UNDER LIABILITY**

I, _____ of _____ (if in an action, the above-named defendant) do make oath (or affirm) and say as follows:

1. (If in an action.) This action is brought to recover (state what) claimed by the plaintiff but I have received a claim adverse to that of the plaintiff from of _____ (or, if no action), I have received adverse claims from of _____ and _____ of _____ to (state what) which is of the approximate value of \$ _____.
I expect to be sued on these claims by the said claimant.

2. I claim no interest in the subject-matter in dispute (other than the sum of \$ _____ for costs or charges) (or as the case may be).
I do not in any manner collude with either (or any) of the said claimants.

3. I am ready and willing to bring into Court or to pay or dispose of the subject-matter in dispute in such manner as the Court may direct.

Sworn (or affirmed) as in Form 78.

33.

O. 17, r. 4

INTERPLEADER SUMMONS

(Title as in Form 28)

(a) *To Execution Creditor.*

Whereas the above claimant has made a claim to certain property taken in execution under process issued out of this Court at your instance:

You are hereby summoned to appear before the High Court/Subordinate Courts on the _____ day of _____ 19____ at _____ m. when the said claim will be adjudicated upon and such order made thereon as the Court shall think just.

Dated this _____ day of _____ 19____.

(Seal)

Registrar.

Entered No. of _____ 19____
Clerk.

To:

The execution creditor (or solicitor for execution creditor).

(b) To Claimant.

You are hereby summoned to appear before the High Court/Subordinate Courts on the day of 19 at m. to support a claim made by you to certain property taken in execution under process issued out of this Court at the instance of the execution creditor and in default of your then establishing such claim the said property will be dealt with under the said process as property of the execution debtor.

Dated this day of 19 .

(Seal)

Registrar.

Entered No. of 19
Clerk.

To

The claimant (or solicitor for claimant).

(c) To a plaintiff or a claimant in a pending action.

Whereas the defendant in this action has filed an affidavit (a copy of which is hereto annexed) stating that he has received a claim from of
to (part of) the subject-matter of this action:

You are hereby summoned to appear before the High Court/Subordinate Courts on the day of , 19 at m. when the Court will adjudicate upon the rights and claims of yourself, the defendant and the (In summons to claimant not a plaintiff in the action, add: A copy of the writ of summons and statement of claim in this claim in this action is hereto annexed).

Dated this day of 19 .

(Seal)

Registrar.

Entered No. of 19
Clerk.

To

(State the name and address of the person to be summoned).

34.

O. 17, r. 11

**JUDGMENT (OR ORDER) ON
INTERPLEADER SUMMONS**

(Title as in Form 28)

(Recital)

Upon this Interpleader Summons (or Originating Summons) coming up for hearing before His Honour on the day of 19 and upon hearing the evidence adduced and what was alleged by the parties (or their counsel) (Insert the appropriate Operative Part).

(Operative Parts)

(a) Under execution.

It is adjudged touching the claim of to (specify the property) (or to the proceeds of sale (or value) of (specify the property)) taken in execution under process issued out of this Court at the instance of execution creditor, that the said (specify the property) (or proceeds of sale) (or value) (or part of the said property) (or proceeds of sale (or value)) namely (specify same) is (or are) not the property of the claimant.

And it is ordered that the said do pay to the said the sum of \$ for costs (and the sum of \$ for extra expenses of execution and keeping possession occasioned by the claim). [Insert directions as to disposal of any money in Court.]

(b) In a pending action.

It is this day adjudged touching the claims of the plaintiff and the claimant to (part of) the subject-matter of this action that the claim of the plaintiff (or claimant) is valid and that the claimant (or plaintiff) has no claim thereto.

(And it is further adjudged that the plaintiff (or claimant) do recover against the defendant the sum of \$ for debt and \$ for costs amounting together to the sum of \$).

(And it is ordered — here insert any order for delivery of the property).

And it is further adjudged that the plaintiff (or claimant) do recover the sum of \$ from the claimant (or plaintiff) for costs (add if any costs awarded to the defendant against the plaintiff or claimant:

And it is further adjudged that the defendant do recover the sum of \$ for costs from the plaintiff (or claimant)).

Solicitor for the

O. 21, r. 2

(Title as in action)

Dated this day of 19 .

To the Registrar and the other parties to the action.

O. 22, r. 1

(Title as in action)

The defendant _____ has paid \$ _____ into Court.

or

or

Dated this day of 19 .

To the Registrar, the plaintiff and the other defendants.

Receipt

Received the above sum of dollars and cents into the
Court for the above credit.

Dated this day of 19 .

Registrar.

38.

O. 22, r. 3

NOTICE OF ACCEPTANCE OF MONEY
PAID INTO COURT

(Title as in action)

Take notice that the plaintiff accepts the sum of \$ paid in by the
defendant in satisfaction of the cause(s) of action in respect of
which it was paid in and in respect of which the plaintiff claims (against that
defendant) (and abandons the other causes of action in respect of which he claims
in this action).

Dated this day of 19 .

Solicitor for the

To the Registrar and the defendant.

38A.

O. 22A, r. 1

OFFER TO SETTLE

(Title as in action)

The (identify party) offers to settle this proceeding (or the following claims in
this proceeding) on the following terms: (set out terms in consecutively numbered
paragraphs).

Dated this day of 19 .

(Name, address, telephone and fax number of solicitor or party making offer)

To: (Name and address of solicitor or party to whom offer is made)

38B.

O. 22A, r. 3 NOTICE OF WITHDRAWAL OF OFFER

(Title as in action)

The (identify party) withdraws the offer to settle dated the day of
19 .

Dated this day of 19 .

(Name, address, telephone and fax number of solicitor or party giving notice)

To: (Name and address of solicitor or party to whom notice is given)

38C.

O. 22A, r. 6 ACCEPTANCE OF OFFER

(Title as in action)

The (identify party) accepts your offer to settle dated the day of
19 (on the following terms).

Dated this day of 19 .

(Name, address, telephone and fax number of solicitor or party accepting offer)

To: (Name and address of solicitor or party whose offer is accepted)

38D.

O. 22A, r. 11 OFFER TO CONTRIBUTE

(Title as in action)

The defendant (name of defendant making offer) offers to contribute to a settlement of the plaintiff's claim on the following terms: (set out terms in consecutively numbered paragraphs).

Dated this day of 19 .

(Name, address, telephone and fax number of solicitor or party making offer)

To: (Name and address of solicitor or party to whom offer is made)

O. 24, r. 2 **NOTICE REQUIRING AFFIDAVIT VERIFYING
LIST OF DOCUMENTS**

Take notice that you the abovenamed plaintiff (or defendant) are required within 14 days after the service of this notice on you to make and file an affidavit verifying the list of documents you are required to make under Order 24, Rule 2 (1).

Solicitor for the

O. 24, r. 5

The following is a list of the documents relating to the matters in question in this action which are or have been in the possession, custody or power of the abovenamed plaintiff (or defendant) _____ and which is served in compliance with Order 24, Rule 2 (or the order herein dated the _____ day of 19____).

4. Of the documents in Schedule 2, those numbered _____ in the schedule were last in the plaintiff's (or defendant's) possession, custody or power on (stating when) and the remainder on (stating when).

5. Neither the plaintiff (or defendant), nor his solicitor nor any other person on his behalf, has now, or ever had, in his possession, custody or power any document of any description whatever relating to any matter in question in this action, other than the documents enumerated in Schedules 1 and 2 hereto.

SCHEDULE 1

PART 1

(Enumerate in a convenient order the documents (or bundles of documents, if of the same nature, such as invoices) in the possession, custody or power of the party in question which he does not object to produce, with a short description of each document or bundle sufficient to identify it).

PART 2

(Enumerate as aforesaid the documents in the possession, custody or power of the party in question which he objects to produce.)

SCHEDULE 2

(Enumerate as aforesaid the documents which have been, but at the date of service of the list are not, in the possession, custody or power of the party in question).

Dated this day of 19 .

Notice to inspect

Take notice that the documents in the above list, other than those listed in part 2 of Schedule 1 (and Schedule 2), may be inspected at (the office of the solicitor of the abovenamed (plaintiff) (defendant) (insert address) or as may be) on the day of 19 , between the hours of and .

Solicitor for the

To the defendant (or plaintiff)
and his solicitor.

41.

O. 24, r. 5 AFFIDAVIT VERIFYING LIST OF DOCUMENTS

(Title as in action)

I, the above-named plaintiff (or defendant)
do make oath (or affirm) and say as follows:

1. The statements made by me in paragraphs 1, 3 and 4 of the list of documents now produced and shown to me marked are true.

2. The statements of fact made by me in paragraph 2 of the said list are true.

3. The statements made by me in paragraph 5 of the said list are true to the best of my knowledge, information and belief.

This affidavit is filed on behalf of the plaintiff (or defendant).

Sworn (or affirmed) as in Form 78.

42.

O. 24, r. 9

NOTICE TO INSPECT DOCUMENTS

(Title as in action)

Take notice that you can inspect the documents mentioned in your notice of the day of 19 (except the deed numbered in that notice) at my office on the day of between the hours of m. and m.

Dated this day of 19 .

Solicitor for the

43.

O. 24, r. 10

**NOTICE TO PRODUCE DOCUMENTS REFERRED
TO IN PLEADINGS OR AFFIDAVITS**

(Title as in action)

Take notice that the plaintiff (or defendant) requires you to produce for his inspection, the following documents referred to in your pleading (or affidavit) namely:

(Describe documents required).

Dated this day of 19 .

Solicitor for the

To the solicitor for

Registrar.

45A.

O. 24, r. 18 ORDER FOR PRODUCTION OF DOCUMENTS IN
MARINE INSURANCE ACTION

[Heading as in action]

Upon hearing [and upon reading the affidavit
of filed the day of 19]:

It is ordered that the plaintiff and all other persons interested in this action, and in the insurance the subject of this action, do produce and show to the defendant, his solicitors or agents on oath [*or by oath of their proper officer*] all insurance slips, policies, letters of instruction or other orders for effecting such slips or policies, or relating to the insurance or the subject-matter of the insurance on the ship or the cargo on board thereof, or the freight thereby, and also all documents relating to the sailing or alleged loss of the said ship, cargo or freight, and all correspondence with any person relating in any manner to the effecting of the insurance on the ship, cargo or freight or any other insurance whatsoever affected on the said ship, cargo or freight, on the voyage insured by the policy sued on in this action, or any other policy whatsoever effected on the said ship, or the cargo on board thereof, or the freight thereby on the same voyage. Also all correspondence between the captain or agent of the ship and any other person with the owner or any person before the commencement of or during the voyage on which the alleged loss happened. Also all books and documents, whatever their nature and whether originals, duplicates or copies, which in any way relate or refer to any matter in question in this action and which are now in the possession, custody or power of the plaintiff or any other person on his behalf, his or their, or any of their brokers, solicitors or agents to inspect and take copies of, or extracts from, any of those books or documents. And that in the like manner the plaintiff and every other person interested as aforesaid do account for all other books and documents relating or referring to any matter in question in this action which were once but are not now in his possession, custody and power.

And that [in the meantime all further proceedings be stayed and that] the costs of and occasioned by this application be costs in the action.

Dated the day of 19 .

 46.
O. 25, r. 1 SUMMONS FOR DIRECTIONS PURSUANT
TO ORDER 25

N.B.—Applicants to complete the text of any matter required and to strike out the number opposite any matter not required but *not to strike out the text*, which must be left for the Judge (or Registrar)

(Title as in action)

Let all parties concerned attend before the Judge (or Registrar) on the day of 19 , at m. on the hearing of an application for directions in this action, that:

1. This action be consolidated with action(s) in Suit No. of 19 , and Suit No. of 19 .

2. This action be referred to the Registrar and that the costs of this application be costs in the cause.

3. The action be (or by consent) transferred to the and that the costs of this application be in the discretion of the .

4. Unless the plaintiff within days gives security for the defendant's costs in the sum of \$ to the satisfaction of the Registrar, the action be transferred to the with stay meanwhile, and that the costs of this application be in the discretion of the (and that if the security be so paid the directions be as follows:)

5. The plaintiff have leave to amend the writ by and that the service of the writ and the defendant's appearance do stand, and that the costs incurred and thrown away by the amendment be the defendant's in any event.

6. The plaintiff have leave to amend the statement of claim as shown in the document served herewith and to re-serve the amended statement of claim in days, with leave to the defendant to serve an amended defence (if so advised) in days thereafter, (and with leave to the plaintiff to re-serve an amended reply (if so advised) in days thereafter) and that the costs incurred and thrown away by the amendments be the defendant's in any event.

7. The defendant have leave to amend the defence as shown in (the document served with) the defendant's notice under this summons and to re-serve the amended defence in days (and with leave to the plaintiff to re-serve an amended reply (if so advised) in days thereafter) and that the costs of and the costs thrown away as the result of the amendments be the plaintiff's in any event.

8. The plaintiff serve on the defendant within days the further and better particulars of the statement of claim specified in (the document served with) the defendant's notice under this summons.

9. The defendant serve on the plaintiff within days the further and better particulars of the defence specified in the document served herewith.

10. The plaintiff serve on the defendant within days the further and better particulars of the reply specified in (the document served with) the defendant's notice under this summons.

11. The plaintiff give security for the defendant's costs to the satisfaction of the Registrar in the sum of \$ on the ground and that in the meantime all further proceedings be stayed.

12. The plaintiff within days serve on the defendant a list of documents (and file an affidavit verifying such list) (limited to the documents relating to the —
(special damage claimed)
(plaintiff's industrial injury, industrial disablement or sickness benefit rights)
(period from to)
(issues raised in paras. of the statement of claim and paras. of the defence)
(issues of)).

13. The defendant within days serve the plaintiff with a list of documents (and file an affidavit verifying such list) (limited to documents relating to the —
(period from to)
(issues raised in paras. of the statement of claim and paras. of the defence)
(issues of)).

14. There be inspection of documents within days of the service of the lists (filing of the affidavits).

15. The plaintiff have leave to serve on the defendant the interrogatories shown in the document served herewith, and that the defendant answer the interrogatories on affidavit within days.

16. The defendant have leave to serve on the plaintiff the interrogatories shown in the document served with the defendant's notice under this summons, and that the plaintiff answer the interrogatories on affidavit within days.

17. The plaintiff (or defendant) (retain and preserve pending the trial of the action) (upon days notice to give inspection of) (the subject-matter of the action, to the defendant (or plaintiff) and to his legal advisers (and experts)).

18. The statements in be admissible in evidence at the trial without calling as a witness the maker of the statements (and, if a copy of that document certified by to be a true copy is produced, without production of the original document).

19. An affidavit of (in the form of the draft affidavit (served herewith) (with the defendant's notice under this summons)) (to be served within days) be admissible in evidence at the trial.

20. Evidence of the following fact(s), namely, _____ be received at the trial by statement on oath of information and belief (by the production of the following documents or entries in books or copy documents or copy entries in books, namely, _____).

21. It be recorded that the parties ((plaintiff) (defendant) refuses to) admit for the purposes of this action that (_____ (the truth of the statements in the document served (herewith) (with the defendant's notice under this summons)).

22. The affidavits of the evidence in chief of all witnesses shall be limited to one affidavit for each witness to be filed and exchanged within _____ months and objection to the contents of the affidavit evidence shall be taken within one month after the exchange of the affidavit evidence.

23. The evidence in chief or the substance thereof of all expert witnesses shall be in the form of affidavit and shall be exchanged/disclosed within _____ months.

24. _____, a witness on behalf of the plaintiff (or defendant) may, upon _____ day's notice, be examined before the Registrar (or a special examiner to be agreed upon by the parties or appointed by the Registrar) and that the said witness need not attend at the trial.

25. There shall be a "without prejudice" meeting among experts not later than one month before trial with a view towards the preparation of a joint statement indicating the agreed evidence and the areas in issue.

26. A plan of the locus in quo other than a sketch plan be receivable in evidence at the trial.

27. Photographs and a plan of the locus in quo be agreed, if possible.

28. By consent, (the right of appeal be excluded) (any appeal be limited to the Court of Appeal) (any appeal be limited to questions of law only).

29. Trial. (Estimated length and number of witnesses) To be set down within _____ days (and to be tried immediately after the action in Suit No. _____ of 19 _____).

30. The witnesses whom the Plaintiffs intend if necessary to call shall be limited to the following:

Witnesses of fact:

Expert witnesses:

Expert witnesses:

Dated this day of 19 .

(Seal)

Registrar.

To the defendant(s) and to his (their) solicitors.

This summons is taken out by _____ of _____, solicitors for the plaintiffs.

47.

O. 25, r. 7 NOTICE UNDER SUMMONS FOR DIRECTIONS
(Title as in action)

Take notice that the abovenamed defendant intends to apply at the hearing of the summons for directions herein for an order that (insert directions required — see Form 46).

Dated this day of 19 .

Solicitors for

48.

O. 26, r. 1

SUMMONS FOR INTERROGATORIES

(Title as in action)

Let all parties concerned attend before the Judge (or Registrar) in Chambers on the day of 19 , at m. on the hearing of an application by for an order that the be at liberty to serve on the interrogatories in writing and that the said do within days answer the questions in writing by affidavit.

Dated this day of 19 .

(Seal)

Registrar.

Entered No. of 19 .
Clerk.

This summons is taken out by
solicitor for

49.

O. 26, r. 1

INTERROGATORIES

(Title as in action)

Interrogatories

On behalf of the abovenamed (plaintiff) or (defendant A.B.) for the examination of the abovenamed (defendants A.B. and C.D.) (defendants the X. Co. Ltd.) or (plaintiff) pursuant to the order herein dated the day of 19 .

(Here set out the interrogatories in the form of concise questions, each interrogatory to be set out in a separate paragraph and numbered consecutively).

1. Did you?
2. Did you not?
3. (a) Were you?
(b) If nay, were you not?

(The defendant A.B. is required to answer all the interrogatories numbered).

(The defendant C.D. is required to answer interrogatories numbered).

(E.F., a director (or as may be) of the defendants, the X. Co., Ltd., is required to answer the interrogatories numbered).

Served the day of 19 , by of
solicitor for the (plaintiff) (defendant).

To the abovenamed (defendants A.B. and C.D.) (plaintiff) and (their) (his) solicitor.

50.

O. 26, r. 1

ORDER FOR INTERROGATORIES

(Title as in action)

Upon the application of and upon reading the affidavit of
filed the day of 19 , and upon hearing

It is ordered that the be at liberty to serve on the
interrogatories in writing as initialled by the Judge and that the said
do answer the interrogatories within days and that the costs of this application
be

Dated this day of 19 .

(Seal)

Registrar.

51.

O. 26, r. 1

ANSWER TO INTERROGATORIES

(Title as in action)

The Answer.

of the (defendants) or (abovenamed defendant A.B.) or (plaintiff) to the
interrogatories for (their) or (his) examination by the abovenamed (plaintiff) or
(defendants) pursuant to the order herein dated the day of
19 .

In answer to the said interrogatories, (we, the said A.B. and C.D. severally) or
(I, the abovenamed A.B. or plaintiff), do make oath (or affirm) and say as follows:

1. To the 1st interrogatory, namely (state in full the interrogatory), that
(stating the answer).

- Sworn (or affirmed) as in Form 78.

This affidavit is filed on behalf of the (defendants) (plaintiff).

52.

NOTICE TO ADMIT FACTS

(Title as in action)

Take notice that the plaintiff (or defendant) in this action requires the defendant (or plaintiff) to admit, for the purposes of this action only, the several facts respectively hereunder specified; and the defendant (or plaintiff) is hereby required, within 14 days from the service of this notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

Dated this day of 19 .

Solicitor for the

To the defendant (or plaintiff) _____ and his solicitor.

The facts, the admission of which is required, are:

(set out admissions required, e.g.)

1. That A.B. died on the _____, 19____.
2. That he died intestate.
3. That C.D. was his only lawful son.
4. That E.F. died on the _____, 19____.
5. That E.F. never was married.

53.

O. 27, r. 2 **ADMISSION OF FACTS, PURSUANT TO NOTICE**
(Title as in action)

The defendant (or plaintiff) in this action, for the purposes of this action only, hereby admits the several facts respectively hereunder specified, subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of such facts, or any of them, as evidence in this action:

Provided that this admission is made for the purposes of this action only, and is not an admission to be used against the defendant (or plaintiff) on any other occasion, or by anyone other than the plaintiff (or defendant, or party requiring the admission).

Solicitor for the

To the plaintiff (or defendant) and his solicitor
(example)

Facts admitted.	Qualifications or Limitations, if any, subject to which they are admitted.
1. That A.B. died on the 19 .	1. —
2. That he died intestate.	2. —
3. That C.D. was his lawful son.	3. But not that he was his only lawful son.
4. That E.F. died.	4. But not that he died on the 19 .
5. That E.F. never was married.	5. —

54.

O. 27, r. 5 **NOTICE TO ADMIT DOCUMENTS**
(Title as in action)

Take notice that the plaintiff (or defendant) in this action proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant (or plaintiff), his solicitor or agent at on the day of , 19 between the hours of and ; and the defendant (or plaintiff) is hereby required, within 7 days to admit that such of the documents as are specified to be originals were respectively written, signed or

And further take notice that if you do not within the aforementioned 7 days give notice that you do not admit the documents (or any of them) and that you require the same to be proved at the trial you shall be deemed to have admitted the document (or documents) unless the Court shall otherwise order.

Solicitor for the

ORIGINALS.

COPIES.

Description of Documents.	Dates.	Original or Duplicate served, sent, or delivered, when, how, and by whom.
1.		
2.		
3.		

55.

O. 27, r. 5 NOTICE OF NON-ADMISSION OF DOCUMENTS

(Title as in action)

Take notice that I do not admit Numbers (e.g. 1, 2 and 5) of the documents (as the case may be) in the Notice to Admit Documents saving all just exceptions to the same as evidence.

Dated this day of 19 .

Solicitor for the

To the plaintiff (or defendant) and his solicitor.

56.

O. 27, r. 5 NOTICE TO PRODUCE

(Title as in action)

Take notice that you are hereby required to produce and show to the Court on the trial of this all books, papers, letters, copies of letters, and other writings and documents in your custody, possession, or power, containing any entry, memorandum, or minute relating to the matters in question in this and particularly —

Dated this day of 19 .

Solicitor for the

To the plaintiff (or defendant) and his solicitor.

57.

O. 28, r. 2

**NOTICE OF APPOINTMENT TO HEAR
ORIGINATING SUMMONS**

(Title as in summons)

To _____ of _____

Take notice that the originating summons issued herein on the _____ day of _____ 19____, will be heard by the Judge/Registrar on the _____ day of _____ 19____, at _____ m. You may attend in person or by your counsel. If you fail to attend, such order will be made as the Court may think just and expedient.

Dated this _____ day of _____ 19____.

(Seal)

Registrar.

58.

O. 29, r. 1

ORDER FOR INTERIM INJUNCTION

(Title as in action)

Upon the application of _____ and upon reading the affidavit of _____, filed the _____ day of _____ 19____, and upon hearing _____, and the plaintiff by his said _____ undertaking to abide by any order the Court or a Judge may make as to damages in case the Court or a Judge should hereafter be of opinion that the defendant _____ shall have sustained any by reason of this order which the plaintiff ought to pay. It is ordered and directed that the defendant(s) (a) _____ by himself (themselves) his (their) agents or employees or otherwise be restrained, and an Injunction is hereby granted restraining him (them) from until after the hearing of a summons returnable on the _____ day of _____ 19____ (or until after the trial of this action) or until further order.

Dated this _____ day of _____ 19____.

(Seal)

Registrar.

(a) Where the injunction is against a limited company or a corporate body, the Form should read: "that the defendants (insert name of company or corporate body) by their agents or employees or otherwise be restrained, etc.".

59.

O. 30, r. 2

RECEIVER'S SECURITY BY UNDERTAKING

(Title as in action)

I, _____ of _____ the receiver (and manager) appointed by order dated (or proposed to be appointed) in this action hereby undertake with the Court to duly account for all moneys and property received by me as such receiver (or manager) or for which I may be held liable and to pay the balances from time to time found due from me and to deliver any property received by me as such receiver (or manager) at such times and in such manner in all respects as the Court or a Judge shall direct.

And we _____ hereby jointly and severally (in the case of a Guarantee or other Company strike out "jointly and severally") undertake with the Court to be answerable for any default by the said _____ as such receiver (or manager) and upon such default to pay to any person or persons or otherwise as the Court or a Judge shall direct any sum or sums not exceeding in the whole \$ _____ : _____ that may from time to time be certified by the Registrar to be due from the receiver and we submit to the jurisdiction of the Court in this action to determine any claim made under this undertaking.

Dated this _____ day of _____ 19 ____.

(Signatures of receiver and his surety or sureties. In the case of a surety being a guarantee or other company, it must be sealed or otherwise duly executed).

60.

O. 30, r. 4

AFFIDAVIT VERIFYING RECEIVER'S ACCOUNT

(Title as in action)

I, _____, of _____, the receiver appointed in this cause, do make oath (or affirm) and say as follows:

1. The document now shown to me marked *A* is, as it purports to be, a full and true account of _____ for the period therein specified.

2. _____ and _____, my sureties named in the guarantee (or undertaking) dated _____ 19 ____, are both alive and neither of them has become bankrupt or insolvent.

or

2. The _____ Co., Ltd., my surety named in the guarantee (or undertaking) dated _____ 19 ____, is still carrying on business and no petition or other proceeding for its winding up is pending.

Sworn (or affirmed) as in Form 78.

61.

O. 31, r. 3

CERTIFICATE OF RESULT OF SALE

(Title as in action)

I, _____, of _____, auctioneer, the person appointed to sell the estate comprised in the particulars hereinafter referred to, hereby certify as follows:

1. I did at the time and place, in the lots, and subject to the conditions specified in the particulars and conditions of sale hereto annexed and marked A, put up for sale by auction the estates described in the said particulars.

The result of the sale is truly set forth in the bidding paper hereto annexed and marked B.

2. I have received the sums set forth in the fourth column of the schedule hereto as deposits from the respective purchasers whose names are set forth in the second column of the said schedule opposite the said sums in respect of their purchase-money leaving the sums set forth in the fifth column of the said schedule due in respect thereof.

THE SCHEDULE above referred to

No. of Lot	Name of Purchaser	Amount of Purchase-Money	Amount of Deposit Received	Amount remaining due.

Auctioneer.

(Date)

(Note: This form can be adapted to meet the requirements of O. 31, r. 3 (1) (b), when certificate has to be given by a solicitor).

62.

O. 32, r. 1

SUMMONS IN CHAMBERS

(Title as in action)

Let all parties concerned attend before the Judge (or Registrar) in Chambers on _____, the _____ day of _____ 19____, at _____ m. on the hearing of an application on the part of (state nature of the application).

The grounds of the application are (state the grounds)

Dated this _____ day of _____ 19____.

Entered No. _____ of _____ 19____
Clerk.

(Seal)

Registrar.

This summons is taken out by the plaintiff (or as may be) of (state address).

To the defendant (or as may be).

63.

O. 34, r. 3 REQUEST FOR SETTING DOWN ACTION FOR TRIAL

(Title as in action)

The Registrar,

We hereby request that the plaintiff (or defendant) be at liberty to set down this action for trial.

The requisite documents pursuant to Order 34, Rule 3, are attached herewith.

The duration of trial estimated by the plaintiff is _____ and by the defendant is _____.

Dated this _____ day of _____ 19____.

Solicitors for the

63A.

O. 90A, r. 1

PRAECIPE FOR HEARING DATES/
FURTHER HEARING DATES

(Title as in action)

The Registrar,

We hereby request that this matter be fixed for hearing for days.

OR

We hereby request that this matter be fixed for further hearing for days.
This matter has taken up days previously.

Fee Payable (excluding the first day of hearing):

(days × \$) = \$

or

Second to Fifth days (days × \$) = \$

Sixth to Tenth days (days × \$) = \$

For each day subsequent to the above = \$

(days × \$).

TOTAL FEE PAYABLE = \$

Dated this day of 19 .

Solicitors for the

64.

O. 34, r. 5

NOTIFICATION OF SETTING DOWN ACTION

(Title as in action)

Take notice that we have this day set down the above action for trial.

Dated this day of 19 .

Solicitors for the

To the other parties to the action.

64A.

O. 34A, r. 3

NOTICE OF PRE-TRIAL CONFERENCE

(Title as in action or proceedings)

To

Take notice that you are required to attend before the Judge (or Registrar) in Chambers on _____, the _____ day of _____ 19____, at _____ m. for a pre-trial conference.

And further take notice that you are required to comply with the following directions:

Dated this _____ day of _____ 19____.

Registrar.

65.

O. 35, r. 7

CERTIFICATE OF OFFICER AFTER TRIAL

(Title as in action)

I certify that this action was heard before His Honour, on the _____ day of _____ 19____. (and on the _____ day of _____ 19____) and occupied the time of the Court as follows:

On the _____ day of _____ 19____, from _____ to _____.

The total time occupied was _____ hours _____ minutes.

The Judge directed that (state precisely the terms of the judgment or order or directions given).

Dated this _____ day of _____ 19____.

Clerk of the Court.

O. 35, r. 8

(Title as in action)

Number of Exhibit	Description of Exhibit	Party who put in Exhibit	Witness who proved Exhibit	Notes

Clerk of the Court.

O. 38, r. 14.

(Title as in action)

You are required to attend before _____ at _____ on
the _____ day of _____ 19____, at _____ m. and so from day to day until the
end of the above proceedings, to give evidence on behalf of the _____ in
the said proceedings.

Entered No. of 19 .
Clerk.

(Seal)

Registrar.

THIS SUBPOENA is issued at the request of _____ (name of solicitor) of _____
 _____ (name of solicitor's firm), solicitor for the _____ Phone _____
 number of solicitor _____ Fax number _____.

68.

O. 38, r. 14

WRIT OF SUBPOENA *DUCES TECUM*

(Title as in action)

To

You are required to attend either in person or by an agent at on
the day of 19 at m. and so from day to day until the
end of the above proceedings to produce the following documents:

on behalf of the in the said proceedings.

Dated this day of 19 .

Entered No. of 19 .
Clerk.

(Seal)

Registrar.

THIS SUBPOENA is issued at the request of (*name of solicitor*)
of (*name of solicitor's firm*), solicitor for the
Phone number of solicitor Fax number .

69.

O. 38, r. 14

WRIT OF SUBPOENA *AD TESTIFICANDUM*
AND DUCES TECUM

(Title as in action)

To

You are required to attend before at on the day of
19 , at m. and so from day to day until the end of the above
proceedings to give evidence and produce the following documents:

on behalf of the in the said proceedings.

Dated this day of 19 .

Entered No. of 19 .
Clerk.

(Seal)

Registrar.

THIS SUBPOENA is issued at the request of _____ (name of solicitor)
 of _____ (name of solicitor's firm), solicitor for the
 Phone number of solicitor _____ Fax number _____

70.

O. 38, r. 14

PRAECIPE FOR SUBPOENA

(Title as in action)

Seal writ of subpoena _____, on behalf of the
 directed to _____ returnable on _____ day of _____ 19 ____.

Witness's name in full:

His (Her) residence or place of business:

His (Her) occupation:

If documents or books are required to be produced here specify them.

If witness is not required to give evidence but only to produce documents, so state.

Dated this _____ day of _____ 19 ____.

Solicitor for the

71.

O. 38, r. 21

AFFIDAVIT FOR AN ORDER FOR THE
PRODUCTION OF A PERSON IN PRISON

(Title as in action)

I, _____, of _____ do make oath (or affirm) and say:

1. That the above action is fixed for hearing on _____ the _____ day of
 19 ____ and that _____ now a prisoner confined in the
 prison, will be a material witness for me at the hearing (or is a party
 to the action).

2. That I am advised and verily believe that I cannot safely proceed to the
 hearing of this action without the evidence of the said (or my evidence).

3. I hereby apply for an order under section 27 of the Prisons Act
 (Chapter 247) that the said _____ may be brought before the Court.

4. I hereby undertake to pay the costs of conveyance of the said in safe custody to and from the Court and of maintenance of him and the officers in charge of him while attending the Court.

Sworn (or affirmed) as in Form 78.

72.

O. 38, r. 21

ORDER TO PRODUCE PERSON IN PRISON

(Title as in action)

To the Officer-in-charge of the

You are hereby required upon tender made to you of a reasonable sum for the conveyance and maintenance of a proper officer and of now a prisoner in the in going to, remaining at and returning from the Supreme Court/Subordinate Courts, to bring the said on the day of 19 at m. to give testimony on behalf of and after the said shall have given his testimony before the Court or the Court shall have dispensed with his further attendance you are required to cause him to be conveyed under safe and sure conduct back to the said

Dated this day of 19 .

(Seal)

Registrar.

73.

O. 39, r. 1

ORDER FOR THE EXAMINATION BEFORE TRIAL

(Title as in action)

Upon the application of and upon reading the affidavit of filed the day of 19 and upon hearing and that the Court is desirous of obtaining the testimony of (name of person).

It is ordered that do attend before the Judge (or Registrar) in Chambers on , the day of 19 at m. or such other day and time as the Judge (or Registrar) may appoint and do there submit to be examined upon oath or affirmation touching the testimony so required as aforesaid and do then and there produce (description of documents, if any, required to be produced).

Registrar.

74.

O. 39, r. 2 ORDER FOR ISSUE OF LETTER OF REQUEST TO
JUDICIAL AUTHORITY OUT OF JURISDICTION

(Title as in action)

Upon the application (as in Form 73).

It is ordered that a letter of request do issue directed to the proper judicial authority for the examination of the following witnesses, namely:

of

of

And it is ordered that the deposition taken pursuant thereto when received be filed in the Registry of the Supreme Court and that office copies thereof may be read and given in evidence on the trial of this action, saving all just exceptions, without any further proof of the absence of the said witnesses than the affidavit of the solicitor of the party using the same as to his belief.

And it is ordered that (the trial of this action be stayed until the said depositions have been filed and that) the costs of and incidental to the application for this order and the said letter of request and examination be (costs in the cause).

(Seal)

Registrar.

75.

O. 39, r. 2. ORDER FOR APPOINTMENT OF EXAMINER TO TAKE
EVIDENCE OF WITNESS OUT OF JURISDICTION

(Title as in action)

Upon the application of _____ and upon reading the affidavit
of _____ filed the _____ day of _____ 19____, and upon hearing _____.

It is ordered that the Singapore (or British) Consul or his deputy at
(or

Esq.)

be appointed as special examiner for the purpose of taking the examination, cross-examination and re-examination viva voce on oath or affirmation, of _____ witnesses on the part of _____ at _____ in (name of country). The examiner shall be at liberty to invite the attendance of the witnesses and the production of documents, but shall not exercise any compulsory powers. Otherwise such examination shall be taken in accordance with the Singapore procedure. The _____ solicitors to give to the _____ solicitors _____ days' notice in writing of the date on which they propose to send out this order to _____ for execution, and that _____ days after the service of such notice the solicitors for the plaintiff and defendant respectively do exchange the names of their agents at _____ to whom notice relating to the examination of the said witnesses may be sent. And that _____ days (exclusive of Sunday) before the examination of any witness hereunder notice of such examination shall be given by the agent of the party on whose behalf such witness is to be examined to the agent of the other party, unless such notice be dispensed with. And that the depositions when taken, together with any documents referred to therein, or certified copies of such documents or of extracts therefrom, be sent by the examiner, under seal, to the Registrar of the Supreme Court (insert address) on or before the _____ day of _____ next, or such further or other day as may be ordered, there to be filed in the Registry. And that either party be at liberty to read and give such depositions in evidence on the trial of this action, saving all just exceptions. And that the trial of this action be stayed until the filing of such depositions. And that the costs of and incidental to the application for this order and such examination be costs in the cause.

Dated this _____ day of _____ 19____.

(Seal)

Registrar.

76.

O. 39, r. 3 **LETTER OF REQUEST FOR EXAMINATION OF
WITNESS OUT OF JURISDICTION**

To the Competent Judicial Authority of in the
of .

Whereas an action is now pending in the High Court in Singapore, in which
 is plaintiff and is defendant and in which the
plaintiff claims

And whereas it has been represented to the said Court that it is necessary for
the purposes of justice and for the due determination of the matters in dispute
between the parties that the following persons should be examined as witnesses
upon oath touching such matters, namely of and
 of and it appears that such witnesses are resident
within your jurisdiction.

Now I, the Registrar of the Supreme Court in Singapore
hereby request that for the reasons aforesaid and for the assistance of the said
Court you will be pleased to summon the said witnesses (and such other witnesses
as the agents of the said plaintiff and defendant shall humbly request you in writing
so to summon) to attend at such time and place as you shall appoint before you, or
such other person as according to your procedure is competent to take the
examination of witnesses, and that you will cause such witnesses to be examined
viva voce (or upon the interrogatories which accompany this letter of request)
touching the said matters in question in the presence of the agents of the plaintiff
and defendant or such of them as shall, on due notice given, attend the examination.

And I further request that you will permit the agents of both the plaintiff and
defendant or such of them as shall be present to examine (upon interrogatories and
viva voce upon the subject-matter thereof or arising out of the answers thereto)
such witnesses as may, after due notice in writing, be produced on their behalf, and
the other party to cross-examine the said witnesses (upon cross-interrogatories and
viva voce) and the party producing the witness for examination to examine him viva
voce.

And I further request that you will be pleased to cause the evidence of the said
witnesses (or the answers of the said witnesses and all additional viva voce
questions, whether on examination, cross-examination or re-examination) to be
reduced into writing and all books, letters, papers and documents produced on such
examination to be duly marked for identification, and that you will be further
pleased to authenticate such examination by the seal of your tribunal or in such
other way as is in accordance with your procedure and to return it together with
(the interrogatories and cross-interrogatories and) a note of the charges and
expenses payable in respect of the execution of this request through the Singapore

Solicitor for the

Commissioner for Oaths.

79.

O. 42, r. 5

JUDGMENTS

(Title as in action)

[Notes: (O. 13, r. 1; O. 19, r. 2; O. 42, r. 5)]

(a) Default judgment in action for liquidated demand.

No appearance having been entered (or no defence having been served) by the defendant herein, it is this day adjudged that the defendant do pay the plaintiff \$ and \$ costs (or costs to be taxed).

(The above costs have been taxed and allowed at \$ as appears by the Registrar's certificate dated the day of 19).

Dated this day of 19 .

(Seal)

Registrar.

[Notes: (O. 13, r. 2; O. 19, r. 3; O. 42, r. 5)]

(b) Default judgment in action for unliquidated damages.

No appearance having been entered (or no defence having been served) by the defendant herein, it is this day adjudged that the defendant do pay the plaintiff damages to be assessed.

The amount found due to the plaintiff under this judgment having been certified at \$ as appears by the Registrar's certificate filed the day of 19 .

It is adjudged that the defendant do pay the plaintiff \$ and costs to be taxed.

The above costs, etc. (as in (a) above).

(Note: This form is a combined form of interlocutory and final judgment. The plaintiff may at his option enter interlocutory judgment by omitting the words below the line in the form and enter a separate final judgment in (f) below).

[Notes: (O. 13, r. 3; O. 19, r. 4; O. 42, r. 5)]

(c) Default judgment in action relating to detention of movable property.

No appearance having been entered (or no defence having been served) by the defendant herein,

It is this day adjudged that the defendant do deliver to the plaintiff the movable property described in the writ of summons (or statement of claim) as (description of movable property) or pay the plaintiff the value of the said property to be assessed (and also damages for their detention to be assessed).

or

It is this day adjudged that the defendant do pay the plaintiff the value of the movable property described in the writ of summons (or statement of claim) to be assessed (and also damages for their detention to be assessed).

The value of the said movable property having been assessed at \$ (and damages at \$) as appears by the Registrar's certificate filed the day of 19 .

It is adjudged that the defendant do pay the plaintiff \$ and costs to be taxed.

The above costs, etc. (as in (a) above).

(Note: See the note to (b) above).

[Notes: (O. 13, r. 4; O. 19, r. 5; O. 42, r. 5)]

(d) *Default judgment in action for possession of immovable property.*

No appearance having been entered (or no defence having been served) by the defendant herein, it is this day adjudged that the defendant do give the plaintiff possession of the immovable property described in the writ of summons (or statement of claim) as and pay the plaintiff \$ costs (or costs to be taxed).

The above costs, etc. (as in (a) above).

[Note: O. 13, r. 4]

(e) *Judgment in default in action for possession of immovable property, damages and costs.*

No appearance having been entered (or no defence having been served) by the defendant herein, it is this day adjudged that the defendant do give the plaintiff possession of the immovable property described in the writ of summons (or statement of claim) as .

And it is further adjudged that the defendant do pay the plaintiff (mesne profits) (damages) to be assessed.

The amount found due to the plaintiff under this judgment having been certified at the sum of \$ as appears by the Registrar's finding filed the day of 19 .

It is adjudged that the defendant do pay the plaintiff \$ and costs to be taxed.

The above costs, etc. (as in (a) above).

(Note: See the note to (b) above).

[Note: O. 42, r. 5]

(f) Final judgment after assessment of damages, etc.

The day of 19 .

The plaintiff having on the day of 19 obtained interlocutory judgment herein against the defendant for damages (or as may be) to be assessed, and the amount found due to the plaintiff having been certified at \$ as appears by the Registrar's certificate filed the day of 19 .

It is this day adjudged that the defendant do pay the plaintiff \$ and costs to be taxed.

The above costs, etc. (as in (a) above).

[Notes: O. 14, r. 3; O. 42, r. 5]

(g) Judgment under Order 14.

The day of 19 .

The defendant having entered appearance herein and the Court having under Order 14, Rule 3, ordered that judgment as hereinafter provided be entered for the plaintiff against the defendant,

It is this day adjudged that the defendant do pay the plaintiff \$ and \$ costs (or costs to be taxed)

or

pay the plaintiff damages to be assessed and costs to be taxed.

or

deliver to the plaintiff the movable property described in the writ of summons (or statement of claim) as (or pay the plaintiff the value of the said movable property to be assessed) (and also damages for their detention to be assessed) and costs to be taxed

or

give the plaintiff possession of the immovable property described in the writ of summons (or statement of claim) as _____ and costs to be taxed.

The above costs, etc. (as in (a) above).

[Notes: O. 14, r. 5; O. 42, r. 5]

(h) Judgment for the Defendant under Order 14.

The _____ day of _____ 19 ____ .

The Court having under Order 14, Rule 5, ordered that judgment be entered for the defendant against the plaintiff on the counterclaim for \$ _____ and costs of the counterclaim.

It is this day adjudged that the plaintiff do pay the defendant \$ _____ and costs of the counterclaim to be taxed.

The above costs, etc. (as in (a) above).

[Note: O. 42, r. 5]

(i) Judgment after trial before Judge.

The _____ day of _____ 19 ____ .

This action having been tried before Justice on the _____ day of _____ 19 ____ .

It is adjudged that the defendant do pay the plaintiff \$ _____ and his costs of action to be taxed (or that this action be dismissed and that the plaintiff do pay the defendant his costs to be taxed) (or as may be according to the Judge's order).

(It is further adjudged that execution be stayed for _____ days) (and if within that time the _____ gives notice of appeal, execution be further stayed until the determination of the appeal or as may be according to the Judge's direction).

The above costs, etc. (as in (a) above).

[Note: O. 42, r. 5]

(j) Judgment upon Motion for Judgment.

The _____ day of _____ 19 ____ (date of order of Court).

This action having on the _____ day of _____ 19 ____ , come on before the Court on motion for judgment on behalf of the (party moving the Court) and the Court after hearing counsel for the (plaintiff and defendant, or as may be) having ordered that (recite direction for judgment),

It is this day adjudged that _____ do pay the \$ _____ and costs to be taxed.

The above costs, etc. (as in (a) above).

[Notes: O. 35, r. 1 (2); O. 42, r. 5]

(k) Judgment of Dismissal.

Dated and entered the day of 19 .

This action having on the day of 19 , been called on for hearing before Justice , and the plaintiff having failed to appear, and the defendant having thereupon become entitled under Order 35, Rule 1 (2), to judgment dismissing the action and the said having ordered that judgment be entered accordingly.

Therefore it is adjudged that this action do stand dismissed out of this Court with costs.

And it is further adjudged that the plaintiff do pay the defendant his costs to be taxed.

The above costs, etc. (as in (a) above).

[Note: O. 42, r. 5]

(l) Judgment in pursuance of Order.

Pursuant to the Order of dated 19 , whereby it was ordered and default having been made,

It is this day adjudged that the defendant do pay the plaintiff \$ and costs to be taxed.

The above costs, etc. (as in (a) above).

[Note: O. 42, r. 5]

(m) Judgment after trial before Registrar.

Dated and entered the day of 19 .

This action by an order dated the day of 19 having been ordered to be tried before , Registrar of the Supreme Court/ Subordinate Courts and the said Registrar having tried the said action and having by his certificate dated the day of , 19 directed that judgment as hereinafter provided be entered for the plaintiff (or defendant),

It is adjudged that (as in (i) above according to the Registrar's certificate).

[Notes: O. 33, r. 5; O. 42, r. 5]

(n) Judgment after decision of preliminary issue.

Dated and entered the day of 19 .

The issue (or question) arising in this cause (or matter) by the order dated the day of 19 ordered to be tried before Justice having on the day of 19 been tried before the said and the said having found and having ordered that judgment as hereinafter provided be entered for the (or having dismissed the cause or matter),

It is this day adjudged that do pay \$ and his costs of action to be taxed) (the plaintiff do pay the defendant his costs of defence to be taxed) (or as may be according to the order made).

Dated this day of 19 .

(Seal)

Registrar.

[Note: O. 42, r. 5]

(o) Judgment for liquidated sum against personal representative.

Dated and entered the day of 19 .

(Recital as in (a) or (f) to (n) according to the circumstances in which judgment was obtained),

It is adjudged that the defendant as executor (or administrator) of the abovenamed deceased do pay the plaintiff \$ and costs to be taxed, the said sum and costs to be levied of the real and personal estate within the meaning of the Probate and Administration Act (Chapter 251) of the deceased at the time of his death come to the hands of the defendant as such executor (or administrator) to be administered, if he has or shall hereafter have so much thereof in his hands to be administered, and if he has not so much thereof, in his hands to be administered, then, as to the costs aforesaid, to be levied of the movable property of the defendant authorised by law to be seized in execution (or as may be according to the order made).

The above costs, etc. (as in (a) above).

(p) Judgment for defendant's costs on discontinuance.

The plaintiff having by a notice in writing dated the day of 19 , discontinued this action (or withdrawn his claim in this action for) and the defendant's costs of the action (or of the claim withdrawn) having been taxed and allowed at \$ as appears by the Registrar's certificate dated the day of 19 , and the plaintiff not having paid the sum within 4 days after taxation,

Dated this day of 19 .

Registrar.

(q) *Judgment for costs after acceptance of money paid into Court.*

The defendant having paid into Court in this action the sum of \$ _____ in satisfaction of the plaintiff's cause(s) of action (or in satisfaction of the plaintiff's cause of action for _____), and the plaintiff having by his notice dated the _____ day of _____ 19____ accepted that sum in satisfaction of his cause(s) of action (or in satisfaction of his cause of action for _____, _____ abandoned his other cause(s) of action), and the plaintiff's costs herein having been taxed and allowed at \$ _____ as appears by the Registrar's certificate dated the _____ day of _____ 19____, and the defendant not having paid the sum within 48 hours after taxation,

Dated this day of 19 .

Registrar.

79A.

O. 81, r. 7

**ORDER FOR POSSESSION
UNDER ORDER 81**

[Title as in Summons]

Upon hearing _____ and upon reading the affidavit of _____ filed the _____ day of _____ 19____, it is ordered that the plaintiff A.B. do recover possession of the land described in the originating summons as _____ [and the defendant _____ do give possession of the said land on _____] [and that the defendant _____ do pay the plaintiff \$ _____ costs [or to be taxed]]

The above costs have been taxed and allowed at \$ _____ as appears by the Registrar's Certificate dated the _____ day of _____ 19____.

Dated the _____ day of _____ 19____.

(Seal)

Registrar.

80.

O. 43, r. 2

ORDER FOR ACCOUNTS AND INQUIRIES

(Title as in action)

Upon the application of _____ the plaintiff (or the defendant) in this action and upon reading the affidavit of _____ filed the _____ day of _____ 19____, and upon hearing _____.

It is ordered that the following accounts and inquiry be taken and made; that is to say,

1. An account of the movable property not specifically bequeathed of _____, deceased, the testator in the pleadings named, come to the hands of, etc.
2. An account of the testator's debts, (or where deceased died more than six years before judgment, (an inquiry whether there is any debt of the deceased remaining unpaid)).
3. An account of the testator's funeral expenses.
4. An account of the legacies and annuities (if any) given by the testator's will.

Registrar.

81.

NOTICE OF JUDGMENT OR ORDER

[Deleted]

82.

FORM OF ADVERTISEMENT FOR CREDITORS

[Deleted]

83.

FORM OF ADVERTISEMENT FOR CLAIMANTS
OTHER THAN CREDITORS[Deleted]

84.

AFFIDAVIT VERIFYING LIST OF CREDITOR'S CLAIMS

[Deleted]

85.

AFFIDAVIT VERIFYING LIST OF CLAIMS
OTHER THAN CREDITOR'S CLAIMS[Deleted]

86.

CERTIFICATE OF REGISTRAR

[Deleted]

87.

O. 45, r. 7

NOTICE ON CERTAIN JUDGMENTS

The endorsement should be in the following words or words to the following effect:

- (a) In the case of a judgment or order requiring a person or body corporate to do an act within a specified time:

“If you, the within-named (or) neglect to obey this judgment (or order) by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the same.”.

- (b) In the case of a judgment or order requiring a person to abstain from doing an act:

“If you, the within-named disobey this judgment (or order), you will be liable to process of execution for the purpose of compelling you to obey the same.”.

- (c) In the case of a judgment or order requiring a body corporate to do or to abstain from doing the act, but it is sought to take enforcement proceedings against a director or other officer of that order:

“If neglect to obey this judgment (or order) by the time therein limited (or in the case of an order to abstain from doing an act, if disobey this judgment (or order), you (a director or officer of the said) will be liable to process of execution for the purpose of compelling the said to obey the same.”.

88.

O. 45, r. 12

WRIT OF SEIZURE AND SALE

(Title as in action)

To the Sheriff/bailiff,

You are directed that you cause to be levied and made out of the property liable to be seized under a writ of seizure and sale which shall be identified by or on behalf of (name of execution creditor) as belonging to (name of execution debtor) now or late of (address of execution debtor) by seizure and if it be necessary by sale thereof \$ which the said (name of execution creditor) lately in the High Court/Subordinate Courts recovered against the said (name of execution debtor) by a judgment (or order or as may be) bearing the day of

Watchmen's wages

Paid to credit of execution debtor

SCHEDULE

O. 47, r. 6 SHERIFF'S/BAILIFF'S NOTICE SEIZING SECURITIES

Whereas by a writ of seizure and sale dated the _____ day of _____, 19____, a copy of which is attached, I was directed to cause to be levied and made out of the property liable to be seized under the writ of seizure and sale belonging to _____ the sum of \$ _____.

Now I do give you notice that I hereby seize the securities specified in the Schedule hereto to which the judgment debtor is beneficially entitled to satisfy the judgment of the abovenamed _____ dated _____.

Sheriff/bailiff.

89.

WRIT OF DELIVERY

To the Sheriff/bailiff,

You are directed that, without delay, you do seize and deliver, to the above-named (name of execution creditor) the following movable property, that is to say (describe the property delivery of which has been adjudged or ordered) (and \$ damages and \$ costs) which the said (name of execution creditor) lately in the High Court/Subordinate Courts recovered against the said (name of execution debtor) by a judgment (or order or as may be) bearing the day of 19 .

(And you are further directed that if the said movable property cannot be found within Singapore you cause to be levied and made out of the property liable to be seized under a writ of seizure and sale belonging to the said (name of execution debtor) and if necessary by sale thereof \$ _____, being the assessed value of the said property). And in what manner you have executed this writ make appear to this Court immediately after the execution thereof. And have there this writ.

Dated this day of 19 .

Entered No. of 19 .
Clerk.

(Seal)

Registrar.

Memorandum on Writ (as in Form 88).

Indorsements on Writ (as in Form 88 or as required).

90.

O. 45, r. 12

WRIT OF POSSESSION

(Title as in action)

To the Sheriff/bailiff,

Whereas lately, by a judgment of the High Court/Subordinate Courts bearing the day of 19 , it was adjudged (or ordered) that the defendant (name of defendant) do give the plaintiff (name of plaintiff) possession of (describe the immovable property delivery of which has been adjudged or ordered) and do pay him \$ and \$ costs.

You are directed that you enter the said immovable property and cause (name of plaintiff) to have possession of it.

And you are further directed that you cause to be levied and made out of the property liable to be seized under a writ of seizure and sale belonging to the said (name of defendant) and if necessary by sale thereof \$. And in what manner you have executed this writ make appear to this Court immediately after the execution thereof. And have there this writ.

Dated this day of 19 .

Entered No. of 19 .
Clerk.

(Seal)

Registrar.

Memorandum on Writ (as in Form 88).

Indorsements on Writ (as in Form 88 or as required).

90A.

O. 81, r. 8

WRIT OF POSSESSION UNDER ORDER 81

[Title as in Summons]

To the Sheriff/bailiff

Whereas it was on the day of 19 ordered that the plaintiff A.B. do recover possession of [described the land recovery of which has been ordered] [and that the defendant C.D. do pay him \$ costs [or costs to be taxed, which costs have been taxed and allowed at \$ as appears by the Registrar's certificate dated the day of 19 .]]

You are directed that you enter the said land and cause A.B. to have possession of it.

[And you are also directed that of the goods, chattels and other property of C.D. authorised by law to be seized in execution you cause to be made [the sum[s] of \$ [and \$ for costs of execution]] and also interest on \$ at the rate of per cent per annum from the day of 19 until payment [together with Sheriff's/bailiff's expenses, costs of levying and other legal, incidental expenses] and that immediately after execution of this writ you pay A.B. in pursuance of the said judgment [or order] the amount levied in respect of the said sums and interest.

And you are also directed that you indorse on this writ immediately after execution thereof a statement of the manner in which you have executed it and send a copy of the statement to A.B.

Dated the day of 19 .

(Seal)

Registrar.

(And further “to levy” (as in (a) above)).

93.

O. 46, r. 9

CONSENT TO ENTRY OF SATISFACTION

(Title as in action)

I, _____ of _____ being the plaintiff (or as may be) named in,
and the sole person entitled to the benefit of the judgment herein, hereby consent
to a memorandum of satisfaction of the said judgment being entered in the Cause
Book.

Dated this _____ day of _____ 19 ____.

Plaintiff (or as may be).

Advocate and Solicitor (or Commissioner for Oaths.)

93A.

O. 46, r. 11

PRAECIPE FOR DATE TO BE APPOINTED
FOR EXECUTION

(Title as in action)

To the Registrar,

Please direct the Sheriff/bailiff to appoint a date for the execution of the
judgment in

A copy of the (writ of execution or distress) is attached.

Name and address of execution creditor:

His Solicitors:

Address for service:

Dated the _____ day of _____ 19 ____.

(Signature)

Execution Creditor (or by or on
behalf of solicitors for _____)

94.

O. 46, r. 16 and NOTICE OF SEIZURE AND INVENTORY
O. 75, r. 4

(Title as in action)

Take notice that I have this day seized the movable property found on or upon the premises No. pursuant to a Writ of Seizure and Sale/Writ of Distress No. of 19 for the sum of \$ and that I value the property seized at \$ approximately.

Unless you pay the amount abovementioned together with costs of this execution within 7 days from the date hereof or obtain an order of the Court to the contrary the same will be sold by public auction on the day of 19 .

Amount due under writ	...	...	...	...	...	...	...	\$
(Rent due for	months from)							
the	day of	19)					
to the	day of	19)					
at \$	a month.)							
Costs of writ	...	...	...	...	...	...	...	\$
Court commission	...	...	...	...	...	...	...	\$
Lotting and advertising	...	...	...	...	...	...	...	\$
Auctioneers' commission	...	...	...	...	...	...	...	\$
Other Court fees	...	...	...	...	...	...	...	\$
Watchmen's wages at \$		a day						\$
Other legal expenses	...	...	...	...	...	...	...	\$

Dated this day of 19 .

Sheriff/bailiff.

(For Inventory see overleaf)

To

and all others whom it may concern.

95.

O. 46, r. 23

NOTICE OF SALE

(Title as in action)

Notice is hereby given that the property seized at _____ on the _____ day of _____ 19____, under Writ of Distress/Seizure and Sale No. _____ of 19____, will be sold by public auction on the _____ day of _____ 19____, at _____ m. unless the amount to be levied and the fees and expenses of execution be sooner paid.

Dated this _____ day of _____ 19____.

Sheriff/bailiff.

95A.

O. 46, r. 26A

ORDER SUSPENDING JUDGMENT OR ORDER
FOR PAYMENT BY INSTALMENTS, EXECUTION

(General Title)

Upon the application of _____ and upon reading the affidavit of _____ filed the _____ day of _____ 19____ and upon hearing _____.

It is ordered that the said judgment (or order) be suspended (or that the execution issued in this action be suspended) for (state time) upon the following terms: (state terms)

Dated this _____ day of _____ 19____.

(Seal)

Registrar.

95B.

O. 47, r. 1B

AFFIDAVIT IN SUPPORT OF APPLICATION
FOR NEW ORDER

(General Title)

I, _____ of _____, the abovenamed plaintiff (or defendant) make oath (or affirm) and say as follows: .

1. I have a judgment of this Court against the defendant (or there is a judgment of this Court against me) particulars of which are as follows:

(a) The date of the judgment is the _____ day of _____ 19 ____ .

(b) The amount of the judgment including costs is \$ ____ .

(c) The amount paid to account since judgment is \$ ____ .

(d) The balance due is \$ ____ .

(e) The date of the instalment order is the _____ day of _____ 19 ____ .

(f) The amount of the instalment order is \$ ____ a month.

2. I verily believe that there is a change of circumstances in the affairs of the defendant (or I say that there is a change of circumstances in my affairs) particulars of which are as follows:

(a) The Defendant's/My occupation was _____ and is now ____ .

(b) His/My total income from all sources was \$ ____ a month and is now \$ ____ a month.

(c) He/I had _____ dependants and now has/have _____ dependants.

(d) His/My rent was \$ ____ a month and is now \$ ____ a month.

(e) His/My regular monthly payments were _____ and are now _____ (herein itemise).

(f) (State other relevant changes).

3. I now apply for an order that (here state the nature of the order required).

Sworn (or affirmed) as in Form 78.

95C.

O. 47, r. 1B

**NEW ORDER FOR PAYMENT OF
JUDGMENT DEBT**

(General Title)

Upon the application of the abovenamed defendant (or as may be) coming on for hearing the day of 19 before His Honour , and upon reading the affidavit of filed the day of 19 . and upon hearing the parties (or as may be). It is ordered that the order dated the day of 19 be rescinded and that the defendant (or as may be) do pay the balance of the judgment debt outstanding by instalments of \$ a month, commencing the day of 19 (or that the application is dismissed) and it is further ordered that the defendant (or as may be) do pay the sum of \$ costs of this application.

Dated this day of 19 .

(Seal)

Registrar.

95D.

**PRAECIPE FOR DIRECTION TO SHERIFF/BAILIFF —
IN RESPECT OF WRIT OF SEIZURE AND SALE
FOR IMMOVABLE PROPERTY**

(Title as in action)

To the Registrar,

Please direct the Sheriff to serve the Writ of Seizure and Sale herein dated the day of 19 , and registered with the (name of Registry) on the day of 19 , on (name of Judgment Debtor) of and, if the judgment debtor cannot be found, affix a copy of the said writ of seizure and sale on some conspicuous part of the immovable property known as , and thereafter, if necessary, to sell the interest of (name of Judgment Debtor) in the immovable property stated therein to satisfy the sum of \$ (and \$ for interest thereon at the rate of 6% per annum from the day of 19 , till the day of 19) due under the judgment (or order) herein dated the day of 19 which remains unsatisfied to the extent of \$.

The value of the interest in the said property is estimated to be worth \$ (Valuation Report attached).

SCHEDULE

96.

O. 48, r. 1 **AFFIDAVIT IN SUPPORT OF APPLICATION FOR
ORDER FOR EXAMINATION OF JUDGMENT DEBTOR**

(Title as in action)

I, of do make oath (or affirm) and say as follows:

1. I am a in the employ of solicitors for the plaintiff and am duly authorised to make this affidavit on behalf of .

2. On the day of 19 , judgment was entered for the plaintiff for \$ and \$ costs (or as may be). The said judgment remains wholly unsatisfied (or unsatisfied as to the total sum of \$, or as may be).

3. In order to enable the plaintiff to decide upon the methods to employ to enforce the said judgment, it is desired to examine the judgment debtor (or , an officer of the judgment debtor company) on the question whether any and if so what debts are owing to him (or the judgment debtor company) and/or means of satisfying the judgment debt.

4. In these circumstances, I respectfully ask for an order that the said judgment debtor (or) do attend before the Registrar to be examined on the said questions, and to produce upon such examination all books or documents in his possession relevant to the said questions at the time and place appointed for his examination.

Sworn (or affirmed) as in Form 78.

97.

O. 48, r. 1 ORDER FOR EXAMINATION OF JUDGMENT DEBTOR

(Title as in action)

Upon the application of _____ and upon reading the affidavit
of _____ filed the _____ day of _____ 19____ and upon
hearing _____ .

It is ordered that the abovenamed judgment debtor _____ attend and
be orally examined as to whether the said judgment debtor has any and what other
property or means on the _____ day of _____ 19____, before the Registrar,
and that the said judgment debtor produce any books or documents in his
possession or power relating to the same before the Registrar at the time of the
examination and that the costs of this application and of the examination there-
under be in the discretion of the Registrar making the order.

Dated this _____ day of _____ 19____ .

(Seal)

Registrar.

Note: This order requires personal service, and the copy served must be endorsed
as prescribed by O. 45, r. 7 (4), when it may be enforced by committal.

98.

O. 49, r. 1

GARNISHEE ORDER TO SHOW CAUSE
IN THE HIGH COURT/SUBORDINATE COURTS
OF THE REPUBLIC OF SINGAPORE

Suit No. _____)
of 19 _____)

Between

Judgment Creditor

and

Judgment Debtor

and

Garnishee.

Upon the application of _____ and upon reading the affidavit
of _____ sworn to (or affirmed) and filed the _____ day of _____
19____ and upon hearing _____ .

It is ordered by the Judge (or Registrar) that all debts due or accruing due from the abovementioned garnishee to the abovementioned judgment debtor (in the sum of \$) be attached to answer a judgment recovered against the said judgment debtor by the abovenamed judgment creditor in the High Court/Subordinate Courts on the day of 19 for the sum (or to answer an order made in the High Court/Subordinate Courts on the day of 19 ordering payment by the judgment debtor to the judgment creditor of the sum) of \$ (debt and \$ costs) (together with the costs of the garnishee proceedings) on which judgment (or order) the sum of \$ remains due and unpaid.

And it is ordered that the garnishee attend before the Judge (or Registrar) in Chambers, on the day of 19 at m., on an application by the said judgment creditor that the garnishee do pay to the judgment creditor the debt due from the garnishee to the judgment debtor, or so much thereof as may be sufficient to satisfy the judgment (or order), together with the costs of the garnishee proceedings.

Dated this day of 19 .

(Seal)

Registrar.

To the abovenamed garnishee
and judgment debtor.

99.

O. 49, r. 2 **AFFIDAVIT IN SUPPORT OF GARNISHEE ORDER**
IN THE HIGH COURT/SUBORDINATE COURTS
OF THE REPUBLIC OF SINGAPORE

Suit No.)
of 19)

Between

Judgment Creditor

and

Judgment Debtor

I, _____, of _____, the abovenamed judgment creditor (or, state the name, the residence and the occupation or description of the deponent), do make oath (or affirm) and say as follows:

1. By a judgment (or order) of the Court given in this action, and dated the _____ day of _____ 19____, it was adjudged (or ordered) that the abovenamed judgment debtor should pay me (or the abovenamed judgment creditor) the sum of \$ _____, and costs \$ _____.

2. The judgment (or order) still remains unsatisfied to the extent of \$ _____ and interest amounting to \$ _____.

3. To the best of my information or belief (state the name, address and description of the garnishee) is indebted to the judgment debtor in the sum of \$ _____ or thereabouts, and is within the jurisdiction of this Court. The grounds of my information and belief are (state the sources of the deponent's information or grounds of belief).

4. I am duly authorised by the abovenamed judgment creditor to make this affidavit on his behalf.

Sworn (or affirmed) as in Form 78.

100.

O. 49, r. 4

GARNISHEE ORDERS

(Title as in Form 98)

(a) *Garnishee order absolute where garnishee owes more than judgment debt.*

Upon reading the affidavit of _____ filed the _____ day of _____ 19____, and the order to show cause made herein dated the _____ day of _____, 19____, and upon hearing the solicitors for the judgment creditor and the garnishee, whereby it was ordered that all debts due or accruing due from the abovenamed garnishee to the abovenamed judgment debtor should be attached to answer a judgment recovered against the said judgment debtor by the abovenamed judgment creditor in the High Court/Subordinate Courts on the _____ day of _____ 19____ for the sum (or to answer an order made in the High Court/Subordinate Courts dated the _____ day of _____ 19____ ordering payment by the said judgment debtor to the abovenamed judgment creditor of the sum of \$ _____ debt and \$ _____ costs) (together with the costs of the garnishee proceedings) on which judgment (or order) the sum of \$ _____ remained due and unpaid.

It is ordered that the said garnishee do forthwith pay to the judgment creditor (or into Court if the judgment creditor is resident outside the scheduled territories as defined in the Exchange Control Act (Chapter 99), or would receive payment of the said sum on behalf of a person so resident, unless the permission of the

Monetary Authority of Singapore under that Act has been given unconditionally or upon conditions which have been complied with) \$ being so much of the debt due from the garnishee to the judgment debtor as is sufficient to satisfy the said judgment debt and costs, together with \$ the costs of the garnishee proceedings, and that the garnishee be at liberty to retain \$ for his costs of this application out of the balance of the debt due from him to the judgment debtor.

Dated this day of 19 .

(Seal)

Registrar.

(b) Garnishee order absolute where garnishee owes less than judgment debt.

Upon reading (as above)

It is ordered that the said garnishee (after deducting therefrom \$ for his costs of this application) do forthwith pay to the said judgment creditor (or into Court if the judgment creditor is resident outside the scheduled territories as defined by the Exchange Control Act (Chapter 99), or would receive payment of the said sum on behalf of a person so resident, unless the permission of the Monetary Authority of Singapore under that Act has been given unconditionally or upon conditions which have been complied with) \$ the debt due from the garnishee to the judgment debtor. And that the sum of \$ the costs of the judgment creditor of this application be added to the judgment debt and be retained out of the money recovered by the judgment creditor under this order and in priority to the amount of the judgment debt.

Dated this day of 19 .

(Seal)

Registrar.

101.

O. 49, r. 5 ORDER FOR ISSUE BETWEEN JUDGMENT CREDITOR
AND GARNISHEE

(Title as in Form 98)

Upon reading the affidavit of filed the day of
19 , and the order nisi herein, dated the day of 19 , and
upon hearing counsel for the judgment creditor, the garnishee and the judgment
debtor.

It is ordered that the judgment creditor and the garnishee proceed to the trial of an issue wherein the said judgment creditor shall be plaintiff and the said garnishee shall be defendant, and that the question to be tried shall be whether

Take notice that the securities comprised in and subject to the trusts of the settlement (or as may be) referred to in the affidavit to which this notice is annexed consist of the following, namely (specify the stock, shares, etc., stating the names in which it stands).

Deponent.
(or solicitor of deponent
if affidavit sworn by him).

Registrar.

108.

O. 51, r. 3 SUMMONS FOR APPOINTMENT OF RECEIVER

(Title as in action)

Let the defendant attend before the Judge (or Registrar) in Chambers on the day of 19 at m. on the hearing of an application on the part of the plaintiff for an order that a receiver be appointed (or that be appointed receiver) in this action to receive the rents, profits and moneys receivable in respect of the interest of the defendant in the following property, namely (describe the property) in or towards satisfaction of the moneys and interest due to the plaintiff under the judgment (or order) in this action dated the day of 19 and for an order as to the costs of this application.

Dated this day of 19 .

Entered No. 19
Clerk.

(Seal)

Registrar.

This summons is taken out by of
To the abovenamed (and his solicitors).

109.

O. 51, r. 3 ORDERS FOR APPOINTMENT OF RECEIVER, ETC.

(a) *Order directing summons for appointment of receiver and granting injunction meanwhile.*

Upon the application of and upon reading the affidavit of filed the day of 19 and upon hearing .

It is ordered that the defendant do attend before the Judge (or Registrar) on the day of 19 at m. on the hearing of an application on the part of the plaintiff for the appointment of as receiver in this action, on the usual terms, to receive the rents, profits and moneys receivable in respect of the defendant's interest in the following property, namely (describe the property) in or towards satisfaction of the sum of \$ debt, \$ costs, and interest on the said sums at the rate of % per annum from the day of 19 due under the judgment (or order) in this action dated the day of 19 .

And that the receiver have liberty, if he shall think proper (but not otherwise), out of the rents, profits and moneys to be received by him to keep down the interest upon the prior encumbrances, according to their priorities, and be allowed such payments, if any, in passing his accounts.

And that the receiver shall on the day of (3 months after the date of order), and at such further and other times as may be ordered by the Registrar leave and pass his accounts, and shall on the day of (4 months after the date of order), and at such further and other times as may be hereafter ordered by the Registrar pay the balance or balances appearing due on the accounts so left, or such part thereof as shall be certified as proper to be so paid, such sums to be paid in or towards satisfaction of what shall for the time being be due in respect of the judgment signed on the day of for the sum of \$ debt and \$ costs, making together the sum of \$.

And that the costs of the receiver (including his remuneration), the costs of obtaining his appointment, of completing his security (if any), of passing his accounts and of obtaining his discharge shall not exceed 10% of the amount due under the said judgment or the amount recovered by the receiver, whichever is the less, provided that not less than \$100 be allowed unless otherwise ordered. Such costs shall be taxed unless assessed by the Registrar and shall be primarily payable out of the sums received by the receiver, but if there shall be no sums received or the amount shall be insufficient, then upon the certificate of the Registrar being given stating the amount of the deficiency, such certificate to be given after passing the final account, the amount of the deficiency so certified shall be paid by the defendant to the plaintiff.

It is also ordered that the balance (if any) remaining in the hands of the receiver, after making the several payments aforesaid, shall unless otherwise directed by the Registrar forthwith be paid by the receiver into Court to the credit of this action, subject to further order.

And that any of the parties be at liberty to apply to the Registrar in Chambers as there may be occasion.

Dated this day of 19 .

(Seal)

Registrar.

110.

O. 52, r. 1

ORDER OF COMMITTAL

(Title as in action)

Upon application made to this Court by counsel for the plaintiff and upon reading the affidavit of filed on the day of of service on the defendant of a copy of the following:

(1) the ex parte summons

(2) the statement and the affidavit in support of the application for leave

(3) the order of Court dated the day of

(4) the notice of motion/the summons for an order of committal

And it appearing to the satisfaction of the Court that the said defendant has been guilty of contempt of Court in (state the contempt):

It is ordered that for his said contempt, the defendant do stand committed to prison to be there imprisoned for (or until further order) (and/or be fined \$).

(It is further ordered that this order shall not be executed if the said defendant complies with the following terms, namely,).

Dated this day of 19 .

(Seal)

Registrar.

111.

O. 52, r. 9

WARRANT FOR COMMITTAL

(Title as in action)

To the Sheriff and all other police officers of Singapore.

Whereas by an Order of this Court pronounced this day it was ordered that the abovenamed do stand committed to prison for his contempt mentioned in the said Order.

This is to direct you to apprehend the said and safely convey him to prison to be detained and kept in safe custody for (or until further order).

Dated this day of 19 .

(Seal)

Registrar.

[Deleted]

(Signed)
Solicitor for the

And further take notice that you are required to attend before the District Judge in Chambers on the day of 19 , at m., on the hearing of an application by the said plaintiff (or defendant), that (state the order sought to be obtained).

Dated this day of 19 .

(Seal)

114A.

O. 55C, r. 1 NOTICE OF APPEAL TO HIGH COURT

District Court No. of 19 .

BETWEEN

Appellant

AND

Respondent

In the matter of No. of 19 ,

BETWEEN

Plaintiff

AND

Defendant

NOTICE OF APPEAL

Take notice that being dissatisfied with the decision of His Honour given at on the day of 19 appeals to the High Court against either/or (the whole of the said decision such part only of the said decision as decides that (Set out details))

Dated this day of 19 .

(Signature)

Appellant

(or Solicitors for the Appellant).

To the Registrar, Subordinate Courts and to:

The address for service of the appellant is .

114B.

O. 55C, r. 3

CERTIFICATE FOR SECURITY FOR COSTS

O. 57, r. 3

(Title as in Form 114A or 115)

This is to certify that _____ of _____ the
abovenamed appellant has deposited the sum of \$ _____ by way of security for the
respondent's costs of the appeal in the Registry (or with the Accountant-General).

Dated this _____ day of _____ 19 ____.

Registrar.

114C.

O. 55C, r. 5

PETITION OF APPEAL

(Title as in Form 114A)

To the Honourable the Judges of the Supreme Court.

The Petition of the abovenamed appellant sheweth as follows:

1. The appeal arises from a claim _____.
2. By judgment dated the _____ day of _____ 19 ____ judgment was
given for _____.
3. Your petitioner is dissatisfied with the said judgment on the following
grounds:
(State the particular grounds of appeal on which the appellant relies).
4. Your petitioner prays that such judgment may be reversed (or as may
be).

Dated this _____ day of _____ 19 ____.

(Signature)
Appellant
(or Solicitors for the Appellant).

114D.

O. 55C, r. 6

RESPONDENT'S NOTICE

(Title as in Form 114A)

Take notice that, on the hearing of the above appeal, the respondent above-named will contend that the decision of His Honour given at
on the day of 19 ought to be varied on the grounds
hereinafter set out (or affirmed on the grounds additional to those relied upon by
the trial court):

(Set out in numbered paragraphs —

- (a) the nature of the relief claimed; and
- (b) the grounds relied upon).

(Signature)
Respondent
(or Solicitors for the Respondent).

Dated this day of 19 .

To The Registrar, Subordinate Courts and to:

The address for service of the respondent is .

Registrar.

114E.

O. 55C, r. 7

NOTICE OF FILING RECORD OF APPEAL

(Title as in Form 114A)

To and

Take notice that the Record of Appeal in the abovementioned proceedings
which was filed in the Registry on the day of 19 has been
this day sent to the Registrar, Supreme Court.

Dated this day of 19 .

Registrar.

114F.

O. 14, r. 14
O. 56, r. 1NOTICE OF APPEAL TO JUDGE OF THE
HIGH COURT IN CHAMBERS

(Title as in action)

Take notice that the abovenamed plaintiff (or defendant) intends to appeal against the decision of the registrar given on the day of 19 ordering (or refusing to order) (state in full the order appealed against).

Dated this day of 19 .

(Signature)
Solicitors for the

And further take notice that you are required to attend before the Judge of the High Court in Chambers on the day of 19 at m., on the hearing of an application by the plaintiff (or defendant), that (state the order sought to be obtained).

Dated this day of 19 .

Registrar.

To:

115.

O. 57, r. 3

NOTICE OF APPEAL TO COURT OF APPEAL

Civil Appeal No. of 19 .

BETWEEN

Appellant

AND

Respondent

In the matter No. of 19 .

BETWEEN

AND

NOTICE OF APPEAL

Take notice that _____ being dissatisfied with the decision of Justice
 given at _____ on the _____ day of _____ 19____
 appeals to the Court of Appeal against

(
 (the whole of the said decision
 (
 (such part only of the said decision
 either/or (
 (as decides that
 ((set out details)

Dated this _____ day of _____ 19____.

(Seal)

Appellant.
(or Solicitor for the Appellant)

To the Registrar,
 Supreme Court.

and to:

The address for service of the appellant is

115A.

O. 58, r. 2

REFERENCE UNDER ARTICLE 100
 OF THE CONSTITUTION FOR OPINION ON
 CONSTITUTION QUESTION

Reference No. _____ of 19____.

To: The Chief Justice

 1. I _____, President of the Republic of Singapore pursuant to
 Article 100 of the Constitution hereby refer to the Tribunal of not less than 3 Judges
 of the Supreme Court constituted under that Article for its opinion the following
 questions on the following provisions of the Constitution which has arisen or
 appears to me likely to arise.

Solicitors for the

CAUSE BOOK

Serial No. of writ	Date of Issue	Name of Plaintiff (His Solicitor, if any, and Address for Service)	Name of Defendant (His Solicitor, if any, and Address for Service)	Claim Amount Nature	Set off or Counter-Claim Amount Nature	Judgment State the date, and when entered, amount, other particulars and in whose favour	Execution State the date, form and No. of Execution and other particulars	Date of entry of satisfaction	Remarks
				\$ ¢	\$ ¢				

ORIGINATING SUMMONS BOOK

Serial No.	Date of Issue	Name of Plaintiff (His Solicitor, if any, and Address for Service)	Name of Defendant (His Solicitor, if any, and Address for Service)	Nature of Order applied for	Date of Order	Order	Remarks

ORIGINATING MOTION BOOK

Serial No.	Date of Issue	Name of Applicant (His Solicitor, if any, and Address for Service)	Name of Respondent (His Solicitor, if any, and Address for Service)	Nature of Order applied for	Date of Order	Order	Remarks

O. 60, r. 2.

INTERPLEADER SUMMONS BOOK

Serial No.	Date of issue	At whose instance issued	His address or, if applied for by Sheriff/bailiff, No. and particulars of Writ or Order	Names of each claimant (including an execution creditor) his solicitor, if any, and address for service	Date of Order	Order	Remarks

O. 60, r. 2.

SUMMONS IN CHAMBERS BOOK

No.	Date of Application	No. and Title of proceedings	Name of Applicant	Nature of Application	Date of Order	Order	Remarks

No such order.

O. 60, r. 2.

WRITS OF EXECUTION BOOK

1 Serial No.	2 Date of Issue	3 Nature of Writ	4 Number of Proceedings	5 Name of Plaintiff and Address	6 Name of Defendant and Address	7 Amount	8 Property or Premises to be delivered.	9 Date Received by Sheriff/bailiff
						\$ ¢		

10 Date of Execution	11 Where Executed	12 Number of application for Discharge	13 Order on Application	14 Date of sale or release	15 Gross amount realised	16 Date writ returned	17 Remarks
					\$ ¢		

O. 60, r. 2.

DISTRESS BOOK

1 Serial No.	2 Date of Issue	3 Originating Application No.	4 Name and Address of Applicant	5 Name and Address of Plaintiff	6 Name and Address of Defendant	7 Monthly Rent	8 Period From To	9 Rent Due \$ ¢	10 Date received by Sheriff/bailiff

11 Date of Execution	12 Where Executed	13 Number of Application for Discharge or Suspension	14 Order on Application	15 Date of Sale or Release	16 Gross Amount Realised \$ ¢	17 Date writ Returned	18 Remarks

O. 60, r. 2.

PROBATE BOOK

Serial No.	Date filed	Whether petition or citation under section 4 of Act	Name and residence of deceased	Date of Death	Petitioner, his residence, solicitor, if any, and capacity in which he applies for grant	Date of hearing	Caveats filed	Value of estate	Grant	Date of Grant	Names of Grantees	Date of issue	Remarks

O. 60, r. 2.

CAVEAT BOOK

Date filed	Where filed	No. of Petition	Name of Deceased	Name of Petitioner and his solicitor (if any)	Name of Caveator, his solicitor, if any, and address for service	Nature of Caveat	When notices issued	No. and date of citation	Remarks

O. 60, r. 2.

SERVICE BOOK

Date	Time handed to Process Server	No. and Nature of Process	Where to be served	Date of hearing	Served or unserved	Initial of Process Server	Time returned to Clerk	Initial of Clerk	Remarks

O. 60, r. 2.

ADOPTION BOOK

Serial No.	Date of Petition	Names of petitioners (their solicitors, if any)	Date of Order	Order	Remarks

REGISTER OF APPEALS TO COURT OF APPEAL

No. of Appeal	High Court Suit No.	Date of Decision	Name of Judge	Date of filing Notice of Appeal	Date of filing Record of Appeal	Appellant	Respondent	Particulars of Appeal against decision	Decision

O. 60, r. 2.

REGISTER OF APPEALS FROM SUBORDINATE COURTS

No. of Appeal	Subordinate Court Summons No.	Date of Decision	Name of Judge	Date of filing Notice of Appeal	Date of filing Record of Appeal	Appellant	Respondent	Particulars of Appeal against decision	Decision

135.

O. 62, r. 5

ORDER FOR SUBSTITUTED SERVICE

(Title as in action)

Upon the application of _____ the plaintiff in this action and upon
reading the affidavit of _____ filed the _____ day of _____ 19 _____ and upon
hearing _____ .

It is ordered that service of a copy of this order, and a copy of the writ of
summons in this action by sending the same by a prepaid ordinary post letter
addressed to the defendant _____ at _____ , (or such other
substituted service as may be ordered) shall be good and sufficient service of the
writ.

Dated this _____ day of _____ 19 _____ .

(Seal)

Registrar.

136.

O. 62, r 5

AFFIDAVIT ON APPLICATION FOR
SUBSTITUTED SERVICE

(Title as in action)

I, _____ of _____ , (the abovenamed plaintiff, or solicitor
for the abovenamed plaintiff, or clerk to the plaintiff's solicitor, or clerk to the
plaintiff, or as may be) do make oath (or affirm) and say as follows:

1. Having been directed by _____ to serve the abovenamed
defendant _____ with a copy of the writ of summons in this
action which appeared to me to have been regularly issued out of and
under the seal of the Supreme Court/Subordinate Courts by the above-
named plaintiff against the abovenamed defendant, and dated the
_____ day of _____ 19 _____ , which said writ and copy were
subscribed and endorsed in the manner and form prescribed by the
Rules of Court and a true copy of which said writ is now produced and
shown to me, marked ' _____ ', I did on _____ the _____ day of
_____ 19 _____ attend for the purpose of serving a copy of the
said writ at (describe efforts to effect service).

I have made all reasonable efforts and used all due means in my power to serve the said writ, but I have not been able to do so.

Sworn (or affirmed) as in Form 78.

Note: The affidavit should also specify the method of substituted service asked for, and state that if such service is ordered it will probably be effectual in bringing the writ (or as may be) to the knowledge of the defendant. If the defendant is evading service the affidavit should so state.

137.

O. 62, r. 9

AFFIDAVITS OF SERVICE

(Title as in action)

(a) *Affidavit of Personal Service of writ of summons or other process on a person.*

I, _____ of _____ do make oath (or affirm) and say as follows:

1. I did on _____ the _____ 19____, at (state where) personally serve (the abovenamed defendant) (or one of the abovenamed defendants) (or a partner in the abovenamed defendant firm of _____ & Co.) (or the person (the insertion of the name is not essential) having at the time of such service the control or management of the said partnership business) (or as may be) with a true copy of the writ of summons (or as may be) in this action which appeared to me to have been regularly issued out of the Registry of the Supreme Court/Subordinate Courts against (the abovenamed defendant) (or the abovenamed defendants) (or as may be) at the suit of (the abovenamed plaintiff) (or plaintiffs) (or as may be) and which was dated the _____ day of _____ 19____.
2. The defendant (or as may be) (is known to me) (or was pointed out to me by _____) (or admitted to me that he was _____).
3. At the time of the said service the said writ (or as may be) and the copy thereof were subscribed (and endorsed) in the manner and form prescribed by the Rules of Court.
4. I did on the _____ day of _____ 19____ endorse on the said writ the day of the month and the week of the said service on the said defendant.

Sworn (or affirmed) as in Form 78.

(b) Affidavit of Personal Service of writ of summons or other process on a body corporate.

I, _____ of _____ do make oath (or affirm) and say as follows:

1. I did on _____ the _____ day of _____ 19 ____ (date of posting), serve _____ the abovenamed defendant (or as may be) with a true copy of the writ of summons (or as may be) in this action, which appeared to me to have been regularly issued out of the Registry of the Supreme Court/Subordinate Courts against the abovenamed defendant (or as may be) at the suit of the abovenamed plaintiff (or as may be), and which was dated the _____ day of _____ 19 ____ by leaving the same at (place of service) (or sending the same) on the _____ day of _____ 19 ____, (by registered post) (or by post in a prepaid letter or envelope) addressed to the abovenamed defendant (or as may be) at (address), which is the registered office of the said defendant (or as may be) (and as in paragraph (3) etc. of (a) above).

Note: This form may be used with necessary alterations for a foreign company registered in Singapore under the Companies Act (Chapter 50), but the affidavit must state that the company is a foreign company registered pursuant to that Act and that service is being effected on the person authorised by registration in Singapore to accept service on behalf of the defendant under that Act.

(c) Affidavit of Substituted Service by Post of writ of summons or other Process.

I, _____ of _____, do make oath (or affirm) and say as follows:

1. I did on the _____ day of _____ 19 ____, serve the abovenamed defendant (or as may be) with a true copy of the writ of summons (or as may be) in this action and a true copy of the order for substituted service, by posting at the Post Office at _____ in a prepaid letter or envelope (or two prepaid letters or envelopes each) containing a true copy of the said writ (or as may be) and of the said order, and addressed (respectively) to the defendant (or as may be) at _____ (and at _____) pursuant to the said order.
2. That the said writ of summons (or as may be) appeared to me to have been regularly issued out of the Registry of the Supreme Court/Subordinate Courts against the abovenamed defendant (or as may be) at the suit of the abovenamed plaintiff (or as may be) and was dated the _____ day of _____ 19 ____ (and as in paragraph (4) etc. of (a) above).

(d) Affidavit of Service of Writ of Summons by Advertisement.

I, _____ of _____, do make oath (or affirm) and say as follows:

1. I did on _____ the _____ day of _____ 19____, serve the abovenamed defendant with the writ of summons in this action and of the order for service by advertisement dated the _____ day of _____ 19____, by causing to be inserted once in (names of paper or papers as ordered) an advertisement in the words following namely:

(Title, Reference Number, etc.)

The abovenamed defendant,

(As in (e) below).

2. The advertisement aforesaid appeared in the (name of paper) on the _____ day of _____ 19____, (and in the (name of paper) on the _____ day of _____ 19____).

Sworn (or affirmed) as in Form 78.

(e) Form of Advertisement.

To _____ of (or late of)

Take notice that an action has been commenced against you in the High Court/Subordinate Courts in Suit No. _____ of 19____ by _____ of _____, in which the plaintiff's claim is for (state very shortly the nature of claim and the amount (if any) claimed in the endorsement on the writ).

And that it has been ordered that service of the writ in the said action on you be effected by this advertisement. If you desire to defend the said action you must within _____ days from the publication of this advertisement, inclusive of the day of such publication, enter an appearance at the Registry of the Supreme Court/Subordinate Courts. In default of such appearance judgment may be entered against you.

Dated this _____ day of _____ 19____.

Solicitors for the

(f) Affidavit of Personal Service of Judgment or Order.

I, _____ of _____, do make oath (or affirm) and say as follows:

1. I did on _____ the _____ day of _____ 19____, at _____ personally serve the abovenamed defendant (or plaintiff) with a true copy of the order (or judgment) dated _____ in this action, now produced and shown to me marked _____ (or recite operative part of order or judgment).
2. The copy of the said order (or judgment) so served as aforesaid had endorsed thereon when so served the words following, that is to say: "If you the within named neglect to obey this order (or judgment) by the time therein limited you will be liable to process of execution for the purpose of compelling you to obey the same order (or judgment)".

Sworn (or affirmed) as in Form 78.

138.

O. 64, r. 1 (O. 64, r. 2) NOTICE OF CHANGE OF SOLICITOR

(Title as in action)

To the Registrar.

Take notice that (name of new solicitor), of _____, has (or have) been appointed to act as the solicitor of the abovenamed (plaintiff or defendant (if for one or more of several defendants, naming the defendant or defendants)) in this action, in the place of (name of original solicitor).

The address for service of the abovenamed (new solicitor) is _____.

Dated this _____ day of _____ 19____.

Solicitor.

To the abovenamed defendant (or plaintiff) or his (or their) solicitor and to (naming the former solicitor of the plaintiff (or defendant)).

139.

O. 64, r. 3 NOTICE OF INTENTION OF PARTY TO ACT IN PERSON,
IN PLACE OF SOLICITOR

(Title as in action)

To the Registrar.

Take notice that I, _____ the abovenamed plaintiff (or defendant)
intend to act in person in this action in the place of _____ and that my
address for service is _____.

Dated this _____ day of _____ 19 ____.

Party.

To the abovenamed defendant (or plaintiff) and to (naming the former
solicitor of the plaintiff (or defendant)).

140.

O. 64, r. 4 SUMMONS TO REMOVE SOLICITOR FROM RECORD

(Title as in action)

Let all parties concerned attend before the Judge (or Registrar) in Chambers
on _____ the _____ day of _____ 19 ____ at _____ m. on the hearing
of an application on the part of (name of party applying) the abovenamed plaintiff
(or defendant) for an order declaring that (name of solicitor who has ceased to act)
of (address) _____ has ceased to be the solicitor acting for you the
abovenamed plaintiff (or defendant) in this action (or matter).

The costs of this application to be

Dated this _____ day of _____ 19 ____.

Entered No. _____ of 19 ____.

Clerk.

(Seal)

Registrar.

This summons is taken out by _____ of solicitor for the _____ in person.

To (name of party whose solicitor has ceased to act).

141.

O. 64, r. 4 ORDER REMOVING SOLICITOR FROM THE RECORD

(Title as in action)

, solicitor for in this action (or matter) having (died, become bankrupt or any other reason for removal) and the said (name of party formerly represented by solicitor) having failed to give notice of change of solicitor or notice of intention to act in person and notice of the application having been duly served upon the said (name of party formerly represented by solicitor).

Upon the application of and upon reading the affidavit of filed the day of 19 and upon hearing .

It is ordered that the said ceases to be the solicitor acting for the said (name of party formerly represented by solicitor) in this action (or matter).

Dated this day of 19 .

(Seal)

Registrar.

142.

O. 64, r. 5 SUMMONS FOR WITHDRAWAL OF SOLICITOR

(Title as in action)

Let all parties concerned attend before the Judge (or Registrar) in Chambers on the day of 19 at m. on the hearing of an application on the part of (name of solicitor withdrawing), the solicitor for the said (name of party represented by solicitor) the abovenamed plaintiff (or defendant) for an order declaring that the said (name of solicitor withdrawing) has ceased to be the solicitor acting for the said plaintiff (or defendant) in the above action (or matter) and that the costs of this application be .

Dated this day of 19 .

- (1) The process received with a Request for Service; and
- (2) A copy of the evidence of service upon the person named in the process.

And I certify that such service so proved, and the proof thereof, are such as are required by the law and practice of the Supreme Court regulating the service of legal process in Singapore, and the proof thereof.

And I certify that the cost of effecting such service, as duly certified by me amounts to the sum of \$.

Dated this day of 19 .

(Seal)

Registrar.

145.

O. 67, r. 5 **ORDER FOR REGISTRATION OF FOREIGN JUDGMENT
IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

O.S. No.)

)

of 19 .)

Between

Judgment Creditor

and

Judgment Debtor

In the matter of the (state the relevant Act).

And in the matter of a judgment of the (describe the Court) obtained in (describe the proceedings) and dated the day of 19 .

Upon the application of the judgment creditor in this action and upon reading the affidavit of filed the day of 19 (and upon the judgment creditor giving security in the sum of \$ by payment into Court, or bond to the satisfaction of the Registrar).

It is ordered that the judgment dated the day of 19 , of the (describe the foreign Court) whereby it was adjudged that the abovenamed (name of judgment creditor) of do recover against the abovenamed (name of judgment debtor) of (amount due under the judgment) which is equivalent in Singapore Dollars to \$ for debt and \$ for costs (or as may be) be registered as a judgment of the High Court pursuant to the Act.

It is further ordered that the abovenamed (name of judgment debtor) be at liberty to apply to set aside the said registration within days after service upon him (within the jurisdiction) (or name of foreign country if to be served abroad) of notice of such registration pursuant to Order 67, Rule 7 if he has grounds for so doing, and execution upon the said judgment will not issue until after the expiration of that period or any extension of the period granted by the Court; or if an application be made to set aside the registration until such application has been disposed of.

It is ordered that the costs of this application be

Dated this day of 19 .

(Seal)

Registrar.

146.

O. 67, r. 13.

**CERTIFICATE UNDER THE RECIPROCAL
ENFORCEMENT OF COMMONWEALTH
JUDGMENTS ACT (CHAPTER 264)**

(Title as in action)

I, , Registrar of the Supreme Court of the Republic of Singapore, hereby certify that the judgment obtained by plaintiff (or defendant) against defendant (or plaintiff) in this action on the day of 19 for payment of the sum of \$ and \$ costs carries interest at the rate of per centum per annum calculated on the said sums of \$ and \$ from the date of the said judgment until payment.

Dated this day of 19 .

(Seal)

Registrar.

147.

O. 67, r. 13

CERTIFICATE UNDER THE RECIPROCAL
ENFORCEMENT OF FOREIGN JUDGMENTS ACT
(CHAPTER 265)

(Title as in action)

I, _____, Registrar of the Supreme Court of the Republic of Singapore, hereby certify that the writ of summons (or as may be), a copy of which is hereunto annexed, was issued out of the Registry of the Supreme Court on the _____ day of _____ 19____ by _____ the abovenamed plaintiff against _____ the abovenamed defendant, for payment of the sum of \$ _____ in respect of (state shortly nature of claim or ground of action).

That the said writ was duly served on the _____ day of _____ 19____, upon the said defendant (state mode of service) (that the said defendant duly appeared to the said writ on the _____ day of _____ 19____).

That the said plaintiff obtained judgment against the said defendant for payment of the sum of \$ _____ in respect of (state shortly nature of claim or terms of judgment), together with the sum of \$ _____ for costs, which judgment was obtained (state grounds on which judgment was based).

That (no) objection has been made to the jurisdiction of the Court (on the grounds that _____).

That the following pleadings in the action consisted of:

Dated this _____ day of _____ 19____.

(Seal)

Registrar.

O. 68, r. 2

Adoption Petition)
No. of 19 .)

And

The Petition of _____ (and _____ his wife, of the same address):

1. Your Petitioner(s) is (are) desirous of adopting the abovenamed
(to be called) under the provisions of the Adoption of
Children Act.
2. Your Petitioner(s) is (are) resident in Singapore, namely, at
Singapore and domiciled in Singapore.
3. Your Petitioner was married to your Petitioner
at on the day of 19 .
4. Your Petitioner(s) is (are) by occupation and
(respectively).
5. Your Petitioner(s) is (are) of and years of age (respectively).
6. Your Petitioner(s) has (have) resident with him (her) (them) the following
persons, namely:
 - 1.
 - 2.
 - 3.
 - 4.
 - 5.
 - 6.
 - 7.
 - 8.
7. Your Petitioner(s) (is) (are) (not) related to the said (original name of infant)
(state relationship (if any)).

8. The said (original name of infant) is —
 - (a) of _____ the sex;
 - (b) unmarried;
 - (c) a child of _____ and _____ both of _____ and who are of the _____ religion;
 - (d) a _____ subject and a _____ by race;
 - (e) _____ years of age, having been born on _____ the _____ day of 19____ ;
 - (f) resident at _____ ;
 - (g) now in the actual custody of _____ of _____ in Singapore; _____ (or under the guardianship of _____ of _____ in Singapore;)
 - (h) not entitled to any property.
9. Your Petitioner(s) has (have) since the _____ day of _____ 19____ , been supporting the said (original name of infant).
10. The said (original name of infant) has (not) been the subject of an Adoption Order or of any application or Petition for an Adoption Order except that (state order or application or petition if any).
11. Your Petitioner(s) undertakes (undertake) if an order is made on this Petition, to make for the said (original name of infant) the following provision, namely, maintenance and education. Your Petitioner(s) will if required, secure the above provision by bond or otherwise as the Court may require.
12. Consent(s) to this Petition has (have) been obtained from the (parent) (or guardian or person having the actual custody of the infant) (or person liable to contribute to the support of the infant) (or spouse of Petitioner).
13. Your Petitioner(s) has not (have not nor has either of them) received or agreed to receive, and no person has made or given or agreed to make or give to the Petitioner(s) (or either of them) any payment or reward in consideration of the adoption of the said (original name of infant) except as follows, namely,.
14. It is proposed that the costs of this Petition including the costs of the Attorney-General if he is appointed guardian ad litem of the said (original name of infant) or such person as may be appointed by this Court shall be provided for by your Petitioner(s).

Your Petitioner(s) prays (pray) —

- (1) that the Attorney-General may be appointed guardian *ad litem* of the said (original name of infant);
- (2) that (a) consent(s) of the _____ be dispensed with; (b) service on the _____ be dispensed with;
- (3) that an Order for the adoption of the said (original name of infant) to be called (_____) by Your Petitioner(s) may be made in pursuance of the Adoption of Children Act with all necessary directions;
- (4) that the costs of this Petition may be provided for as abovementioned or otherwise as the Court may direct;
- (5) such further and other order as the nature of the case may require.

Note: The address for service of Your Petitioner(s) is _____, Singapore.

It is intended to serve this Petition on _____.

Dated this _____ day of _____ 19 ____.

Petitioner.

AFFIDAVIT

I, (We) _____ and _____ the Petitioner(s) do make oath (or affirm) that the contents of the foregoing Petition are to the best of my(our) knowledge and belief in all respects true.

Sworn (or affirmed) as in Form 78.

149.

O. 68, r. 6

CONSENT TO ADOPTION ORDER

(Title as in Form 148)

I (We), the undersigned _____, of _____ (and of _____) being (the parent of the abovenamed infant) (or guardian of the abovenamed infant) (or the person having actual custody of the abovenamed infant) (or a person liable to contribute to the support of the abovenamed infant) (or spouse of the petitioner) hereby state that I (we) understand the nature and effect of the adoption order for which application is made in these proceedings (and that in particular I (we) understand that the effect of the order will be permanently to deprive me (us) of my (our) parental rights); And I (We) hereby consent to the making of an adoption order in favour of the Petitioner(s).

Registrar.

151.

O. 68, r. 6

ORDER FOR DISPENSATION OF CONSENT

(Title as in Form 148)

Upon the application of _____ and upon reading the affidavit
 of _____ filed the _____ day of _____ 19 _____ and upon
 hearing _____ .

It is ordered that the consent of (the parent of the abovenamed infant) (or the
 guardian of the abovenamed infant) (or the person having the actual custody of the
 abovenamed infant) (or the person liable to contribute to the support of the
 abovenamed infant) (or the spouse of the petitioner) be dispensed with.

Dated this _____ day of _____ 19 _____ .

(Seal)

Registrar.

152.

O. 68, r. 8

NOTICE OF HEARING OF PETITION

(Title as in Form 148)

Take notice that a Petition has been presented in the above matter praying that
 an order may be made for the adoption of the abovenamed infant
 (to be called _____) by _____ of _____ and that
 of _____ has been appointed guardian ad litem to
 the said infant and that the said Petition will be heard on the _____ day of
 19 _____ .

Dated this _____ day of _____ 19 _____ .

(Seal)

Registrar.

To (the parties to the proceedings to be served).

153.

O. 68, r. 16

INTERIM ADOPTION ORDER

(Title as in Form 148)

Upon reading the Petition of _____ and _____ and upon reading the affidavit of _____ filed the _____ day of _____ 19____ and upon hearing State Counsel for the Attorney-General as guardian ad litem for the abovenamed infant and the Judge being satisfied that the allegations in the said Petition are true and also being satisfied that the undertaking of the said _____ and _____ as to the provision to be made for the abovenamed infant and with the security thereof and being further satisfied that it is for the benefit of the said infant that he(he) _____ should for the present be in the custody of the said Petitioner(s) and that all the requirements of the Adoption of Children Act have been complied with.

It is ordered pending the determination of the Petition that the custody of the said infant be given to the said Petitioner(s) from the date of this Order by way of a probationary period (and subject to the supervision of _____ and _____ who shall be at liberty at all reasonable times to visit and interview the infant alone and to make all necessary inquiries as to the comfort and well-being of the infant).

It is further ordered that as regards costs

And it is lastly ordered that any of the parties including the guardian ad litem of the said infant are to be at liberty to apply.

Dated this _____ day of _____ 19____ .

(Seal)

Registrar.

154(a)

O. 68, r. 16

ADOPTION ORDER

(Title as in Form 148)

Order where child is born in Singapore

Upon reading the Petition of _____ and _____ and upon
 reading the affidavit of _____ filed the _____ day of _____ 19____
 and upon hearing State Counsel for the Attorney-General as guardian ad litem for
 the abovenamed infant, and the Judge being satisfied that the allegations in the
 said Petition are true and also being satisfied with the undertaking of the
 said _____ and _____ as to the provision to be made for the
 abovenamed infant and being further satisfied that it is for the benefit of the said
 infant that he (she) _____ should be adopted by the said Petitioner(s) and
 that all the requirements of the Adoption of Children Act have been complied with.

It is ordered that the said Petitioner(s) be authorised to adopt the said infant,
 (original name of infant) _____ to be called “ _____ ”.

And it is ordered that the said Petitioner(s) do pay the costs of these
 proceedings to the Attorney-General.

And it having been proved to the satisfaction of the Judge that the said infant
 was born on the _____ day of _____ 19____ and is identical with
 _____ to whom an entry numbered _____ and made on the
 _____ day of _____ 19____ in the Register of Births for the Republic of
 Singapore, relates.

It is directed that the Registrar shall send to the Registrar-General of Births
 and Deaths particulars in the form set out in the Schedule hereto.

And it is further directed that the Registrar-General shall cause such birth
 entry to be marked with the word 'Adopted' and shall register the particulars
 supplied, including the above date of birth, in the manner prescribed by the said
 Act.

Dated the _____ day of _____ 19____ .

(Seal)

Registrar.

THE SCHEDULE

CHILD'S PARTICULARS	Full name before adoption					Full name conferred by Adoption Order		
	Sex	Date of birth	Day	Month	Year	Place of birth	Birth Register No./Entry No. of Previous Adoption	
Natural Parents/ Previous Adopters	Name of Father					Citizenship of Father at the time of the child's birth	Singapore NRIC No.	
	Name of Mother					Citizenship of Mother at the time of the child's birth	Singapore NRIC No.	
ADOPTIVE PARENTS	Father	Name and Surname					Date of birth	Country of birth
		Race/Dialect Group		Nationality/Citizenship			Singapore NRIC No.	
		Occupation					Address	
	Mother	Maiden name					Date of birth	Country of birth
		Race/Dialect Group		Nationality/Citizenship			Singapore NRIC No.	
		Occupation					Address	
	Date of Adoption Order							
	Description of Court by which made							
	In the case of adoption by a single adopter, whether adopter wishes his or her name to appear as adoptive father or adoptive mother on the child's new birth certificate.							

O. 68, r. 16

154(b)

Order where child is born outside Singapore

Upon reading the Petition of _____ and _____ and upon reading the affidavit of _____ filed the _____ day of _____ 19____ and upon hearing State Counsel for the Attorney-General as guardian ad litem for the abovenamed infant, and the Judge being satisfied that the allegations in the said Petition are true and also being satisfied with the undertaking of the said _____ and _____ as to the provision to be made for the abovenamed infant and being further satisfied that it is for the benefit of the said infant that he (she) _____ should be adopted by the said Petitioner(s) and that all the requirements of the Adoption of Children Act have been complied with.

It is ordered that the said Petitioner(s) be authorised to adopt the said infant, (original name of infant) _____ to be called “ _____ ”.

And it is ordered that the said Petitioner(s) do pay the costs of these proceedings to the Attorney-General.

And it having been proved to the satisfaction of the Judge that the said infant was born on the _____ day of _____ 19____ .

It is directed that the Registrar shall send to the Registrar-General of Births and Deaths particulars in the form set out in the Schedule hereto.

And it is further direct that the Registrar-General shall register the particulars supplied, including the above date of birth, in the manner prescribed by the said Act.

Dated this _____ day of _____ 19____ .

(Seal)

Registrar.

THE SCHEDULE

CHILD'S PARTICULARS	Full name before adoption					Full name conferred by Adoption Order		
	Sex	Date of birth	Day	Month	Year	Place of birth	Birth Register No./Entry No. of Previous Adoption	
Natural Parents/ Previous Adopters	Name of Father					Citizenship of Father at the time of the child's birth	Singapore NRIC No.	
	Name of Mother					Citizenship of Mother at the time of the child's birth	Singapore NRIC No.	
ADOPTIVE PARENTS	Father	Name and Surname					Date of birth	Country of birth
		Race/Dialect Group		Nationality/Citizenship			Singapore NRIC No.	
		Occupation					Address	
	Mother	Maiden name					Date of birth	Country of birth
		Race/Dialect Group		Nationality/Citizenship			Singapore NRIC No.	
		Occupation					Address	
Date of Adoption Order								
Description of Court by which made								
In the case of adoption by a single adopter, whether adopter wishes his or her name to appear as adoptive father or adoptive mother on the child's new birth certificate.								

1. No. of Entry —
2. Date and Country of birth of child —
3. Name and Surname of child —
4. Sex of child —
5. Name and Surname, address and occupation of adopter or adopters —
6. Date of adoption order and description of Court by which made —
7. Date of Entry —
8. Signature of officer deputed by Registrar-General to effect the entry —

O. 70, r. 2

Admiralty in Rem)
No. of 19 .)

(The ship or cargo, etc., as may be)

(The owners of the ship or as may be)

(The owners of the ship or as may be)

THIS WRIT OF SUMMONS has been issued by the plaintiffs against the property described above in respect of the claim endorsed herein.

This writ is issued by _____ of _____ solicitor for the said plaintiff whose address is _____ (or where the plaintiff sues in person). This writ is issued by the said plaintiff who resides at _____ and is (state occupation) and (if the plaintiff does not reside within the jurisdiction) whose address for service is _____.

Endorsement as to service

This writ was served by _____ by way of personal service (or as may be) (state manner of service or in accordance with the terms of an order for substituted service) on the defendant (who is known to me) (or who was pointed out to me by _____) (or who admitted to me that he was _____) at (place) on _____ the _____ day of _____ 19 ____.

Endorsed this _____ day of _____ 19 ____.

Process Server.

156.

O. 70, r. 4

WARRANT OF ARREST

(Title as in Form 155)

To the Sheriff,

You are directed to arrest the ship _____ of the port of _____ (and the cargo now or lately laden therein, together with the freight due for the transportation thereof) or (and the freight due for the transportation of the cargo now or lately laden therein) and to keep the ship under safe arrest until you shall receive further orders.

Dated this _____ day of _____ 19 ____.

(Seal)

Registrar.

The plaintiff's claim is for (copy from the writ).

Taken out by _____ solicitors for the _____ Sheriff's endorsement as to service.

157.

O. 70, r. 4 PRAECIPE FOR WARRANT OF ARREST

(Title as in Form 155)

We, _____ of _____ solicitors for the
plaintiffs request a warrant to arrest (description of property giving name, if a ship).

Dated this _____ day of _____ 19 ____.

Solicitors for the plaintiffs.

158.

O. 70, r. 5 PRAECIPE FOR CAVEAT AGAINST ARREST

(Description of property giving name, if a ship).

We, _____ of _____ solicitors for
_____ of _____ request a caveat against the arrest of (description
of property giving name, if a ship) and hereby undertake to enter an appearance in
any action that may be begun in the High Court against the said
and, within 3 days after receiving notice that such an action has been begun, to give
bail in the action in a sum not exceeding _____ dollars or to pay that sum
into Court. We consent that the writ of summons and any other document in the
action may be left for us at _____.

Dated this _____ day of _____ 19 ____.

Solicitors for the

159.

O. 70, r. 7 PRAECIPE FOR SERVICE OF WRIT
IN REM BY SHERIFF

(Title as in Form 155)

We, _____ of _____, solicitors for the plaintiffs request
that the writ of summons left herewith be duly served on _____.

Dated this _____ day of _____ 19 ____.

Solicitors for the plaintiffs.

160.

O. 70, r. 12

RELEASE

(Title as in Form 155)

To the Sheriff,

Whereas in this action you were directed to arrest the _____ and to keep the same under safe arrest until you should receive further orders. Now you are directed to release the said _____ from the arrest effected by virtue of the warrant in this action.

Dated this _____ day of _____ 19 ____.

Registrar.

Taken out by _____ solicitors for the _____
 Sheriff's endorsement.

On the _____ day of _____ 19 __, the _____ was released from arrest pursuant to this Instrument.

Sheriff.

161.

O. 70, r. 12

PRAECIPE FOR ISSUE OF RELEASE

(Title as in Form 155)

We, _____ of _____ solicitors for the plaintiffs (or defendants) in this action against (description of property giving name, if a ship), now under arrest by virtue of a warrant issued out of the Supreme Court Registry, request the issue of a release with respect to the said _____.

Dated this _____ day of _____ 19 ____.

Solicitors for the

162.

O. 70, r. 13 PRAECIPE FOR CAVEAT AGAINST RELEASE
AND PAYMENT

(Title as in Form 155)

We, _____ of _____ solicitors for _____
of _____ request a caveat against the issue of a release with respect to
(description of property giving name, if a ship) now under arrest and, should the
said property be sold by order of the Court, a caveat against payment out of Court
of the proceeds of sale.

Dated this _____ day of _____ 19 ____.

Solicitors for the

163.

O. 70, r. 14 PRAECIPE FOR WITHDRAWAL OF CAVEAT

(Title as in Form 155)

We, _____ of _____ solicitors for _____ of _____
request that the caveat (state nature of caveat) entered on the
day of _____ 19 ____ on behalf of _____ be withdrawn.

Dated this _____ day of _____ 19 ____.

Solicitors for the

164.

O. 70, r. 15 BAIL BOND

(Title as in Form 155)

Whereas this Admiralty action in rem against the abovementioned property is
pending in the High Court and the parties to the said action are the abovementioned
plaintiffs and defendants:

Now, therefore, we _____ of _____ and _____,
hereby jointly and severally submit ourselves to the jurisdiction of the said Court
and consent that if they, the abovementioned defendants (or plaintiffs, in the
case of a counterclaim) do not pay what may be adjudged against them in this
action, with costs, or do not pay any sum due to be paid by them in consequence
of any admission of liability therein or under any agreement by which this action

is settled before judgment and which is filed in the said Court, execution may issue against us, our executors or administrators, movable property, for the amount unpaid or an amount of dollars whichever is the less.

This bail bond was signed by the said and , the sureties, the day of 19 .

Before me,

Commissioner for Oaths.

165.

O. 70, r. 22

**PRAECIPE FOR COMMISSION FOR
APPRAISEMENT AND SALE**

(Title as in Form 155)

We of solicitors for the plaintiffs (or defendants) request a commission for the appraisal and sale of (description of property giving name, if a ship) which was ordered by the Court on the day of 19 .

Dated this day of 19 .

Solicitors for the

166.

O. 70, r. 22

COMMISSION FOR APPRAISEMENT AND SALE

(Title as in Form 155)

To the Sheriff,

Whereas in this action the Court has ordered (description of property giving name, if a ship) to be appraised and sold.

You are hereby authorised and directed to choose one or more experienced persons and to swear him or them to appraise the said according to the true value thereof, and such value having been certified in writing by him or them to cause the said to be sold by (private treaty or public auction) for the highest price that can be obtained for it, but not for less than the appraised value unless the Court on your application allows it to be sold for less.

3. The Petitioner believes the paper writing hereto exhibited and a certified true copy of which is annexed hereto marked "A" to be a copy of the true and original last Will and Testament (with Codicil thereto) of the said deceased.

4. The Petitioner is the sole executor (or one of the executors) named in the said Will (of , the other executor therein named died on the day of or on the day of by instrument duly signed renounced probate and execution of the said Will).

Be it so. The Petitioner prays that probate of the said Will (and Codicil) of the said may be granted to him (leave being reserved to to come in and prove the same or as may be).

Registrar.

The address for service of the Petitioner is

I, , the Petitioner do make oath (or affirm) and say that the contents of the foregoing Petition are to the best of my knowledge and belief in all respects true.

Sworn (or affirmed) as in Form 78.

(b) For Administration.

The Petition of of Showeth.

1. who resided at died on the day of 19 at domiciled in had at the time of his death property within the jurisdiction of this Court.

2. The whole of the estate and effects of the deceased, movable and immovable, within the jurisdiction exclusive of what the deceased was possessed of or entitled to as a Trustee for any other person or persons, and not beneficially but without deducting anything on account of the debts due or owing from the deceased, does/does not exceed in value \$3 million to the best of the Petitioner's knowledge, information and belief.

3. The said deceased, who was a (1) citizen and a (2) died intestate (3) leaving him surviving (4) .

4. The Petitioner is the (5) .

5. of and of has (or have) a prior right to the Petitioner being (6) and of has (or have) an equal right to the Petition being (6) but he on the day of 19 , by writing signed by renounced such right.

6. There is minority (or life) interest in the estate of the said (7) .

Be it so. The Petitioner prays that Letters of Administration of the
Estate and Effects of the said may be granted
Registrar. to him as (9).

Sworn (or affirmed) as in Form 78.

The Testator did not in his said Will name any executor (or EF the executor named in the said Will died on the _____ day of _____ or has renounced probate and execution thereof), and the Petitioner is the (state relationship, if any) of the said deceased, and the residuary legatee or one of the residuary legatees named in the said Will _____ or the Testator (died a widower or bachelor (if so) and) did not in his said Will name any executor or residuary legatee and the Petitioner is the (as in Order 71, Rule 5 (5)).

On the _____ day of _____, 19____, Letters of Administration of the
estate of the said deceased were granted to _____ the said
_____ as the lawful _____ of the said deceased; but he died on
the _____ day of _____, 19____ leaving (part of) the estate unadministered.
(and inserting "de bonis non" after "administration" in the prayer)

Showeth

Proceed as in (b) above down to paragraph 3 thereof inclusive; then proceed:

4. The petitioning company has by writing filed herewith been authorised by the (5) to apply for Letters of Administration of the estate of the said .

5. of has a prior and (or) of has an equal right to the said to letters of administration being (state relationship) but he on the day of 19 by writing signed by him renounced such right.

6. There is a (or no) minority and a (or) life interest in the estate of the said namely (set out the minority and life interest, stating the name, age and interest of each minor entitled).

7. The petitioning company by a resolution of their board of directors, a copy whereof under the Seal of the petitioning company is filed herewith, have authorised an officer of the petitioning company to make, swear and sign the petition on their behalf.

Be it so. The petitioning company prays that Letters of Administration of the Estate and Effects of the said may be
Registrar. granted to it.

The address for service of the petitioning company is

I, , an officer of the petitioning company duly authorised by the petitioning company for this purpose do make oath (or affirm) and say that the contents of the foregoing petition are to the best of my knowledge and belief in all respects true.

Sworn (or affirmed) as in Form 78.

Note: In a petition for probate where there is one executor or executrix only named in the will, he or she should be described as the sole executor or the sole executrix and in a petition for Letters of Administration all persons entitled to any part of the estate should be disclosed.

At —

- (1) State country e.g. Singapore, Malaysia.
- (2) Religion e.g. Christian, Buddhist, Hindu, Muslim (if a Muslim state Madzhab to which he belonged).
- (3) A widower, widow, spinster or bachelor.

-
- (4) His only or one of the lawful widows (or her lawful husband) and state the next-of-kin (in case of children state name, sex, and age or date of birth).
- (5) Descriptions to be used where the person applying for Letters of Administration is:
- | | | |
|-------------------|-----|---|
| (a) a widow | ... | "the lawful widow," or, if the deceased was of a religion allowing polygamy, as "the only lawful widow" or "one of the lawful widows," as the case may be; |
| (b) a husband | ... | "the lawful husband"; |
| (c) a father | ... | "the lawful father and next-of-kin"; |
| (d) a mother | ... | "the lawful mother and next-of-kin," or "the lawful mother and only next-of-kin"; |
| (e) a child | ... | "the lawful and only child and only next-of-kin" or "one of the lawful children and next-of-kin"; |
| (f) a brother | ... | "the lawful brother"; |
| (g) a sister | ... | "the lawful sister"; the brother or sister shall further be described as "one of the next-of-kin" or the "only next-of-kin"; |
| (h) a nephew | ... | "the lawful nephew" and "one of the" or "only next-of-kin"; |
| (i) a niece | ... | "the lawful niece" and "one of the" or "only next-of-kin"; if a brother or sister is living and the nephew or niece being the child of a brother or sister of the intestate who died in his lifetime applies for administration, he or she shall be described as "one of the persons entitled in distribution to the estate and effects of the deceased"; |
| (j) a grandparent | ... | grandchild, cousin, etc., shall be described as "lawful" and "one of the next-of-kin" or "only next-of-kin". |
- (6) State relationship.
- (7) Set out the minority or life interest stating the name, age and interest of each minor entitled.
- (8) State relationship, if any, to deceased.
- (9) Set out the capacity of the petitioner as in (5) above, or as may be.

(f) *For Resealing (in the High Court):*

The Petition of _____ of _____ .

Showeth:

1. _____ late of _____ deceased died on the _____ day of _____ 19____, and had at the time of his death his ordinary or principal domicile in _____ (or without any known domicile or without any fixed domicile or as may be).
2. The said _____ deceased died intestate and Letters of Administration of his estate and effects of which a true copy is hereunto annexed were duly granted to your Petitioner (or to _____ of _____) by the (name of Court).
 (Or 2. The said deceased duly executed his last Will and Testament dated the _____ day of _____ 19____, and Probate thereof, of which a true copy is hereunto annexed, was duly granted to your Petitioner the executor thereof (or to _____ of _____ the executor thereof) by the (name of Court).)
 (Or 2. The said deceased duly executed his last Will and Testament dated the _____ day of _____ 19____, and Letters of Administration with such Will and Testament annexed thereto, of which Letters and Will a true copy is hereunto annexed, were duly granted to your Petitioner (or to _____ of _____) by the (name of Court).)
3. The said deceased resided or carried on (or did not reside or carry on) business in Singapore at any time within 12 months next before his death.
4. So far as your Petitioner is aware there are (or no) debts due from the estate of the said deceased to creditors residing in Singapore.
5. The said deceased died possessed of certain property in Singapore, namely:
6. Your Petitioner has been duly authorised by the said _____ by power of attorney dated the _____ day of _____ 19____ which has been deposited in the Supreme Court at Singapore under the provisions of section 48 of the Conveyancing and Law of Property Act (Chapter 61) to make this application on his behalf.
7. The address for service of the petitioner is _____ .

Be it so. _____ Your Petitioner prays that the Probate (or Letters of
Registrar. Administration) may be sealed with the seal of this Court.

I, _____, do make oath (or affirm) and say that the statements contained in the foregoing petition are to the best of my knowledge, information and belief in all respects true.

Sworn (or affirmed) as in Form 78.

(g) *As in (a) above inserting after paragraph 3 the following:*

4. On the _____ day of _____ Probate of the estate and effects of the said deceased was _____ granted to _____ as _____ of _____ the _____ executors named in the said Will in Probate No. _____ of 19 _____ leave being reserved to _____ the other executor(s) therein named to come in and prove the same.

5. The Petitioner(s) is/are the other executor(s) named in the said Will of _____, deceased.

Be it so. _____ The Petitioner(s) prays that _____ Probate of the said Will (and codicil(s)) of the said _____ may be granted to him/them as the other executor(s) named in the said Will.
Registrar.

The address for the service of the Petitioner(s) is _____

169.

O. 71, r. 31

RENUNCIATION.

(Title as in Form 168)

(a) *Of Administration.*

Whereas the abovenamed deceased _____ of _____ who at the time of his(her) death had property within Singapore died on the _____ day of _____ 19 _____, at _____ intestate leaving me (insert name) _____ his(her) _____ and next-of-kin:

Now, I _____, do hereby renounce all my right and title to letters of administration of the estate of the said deceased.

Signed by the said this _____ day of _____ 19 _____.

Before me,

Solicitor
(or Commissioner for Oaths).

(b) *Of Probate.*

Whereas the abovenamed deceased _____ of _____
 who at the time of his(her) death had property within Singapore died on the
 day of _____ 19____, at _____ having made and duly
 executed his(her) last will and testament bearing date the _____ day of
 19____ (with a codicil thereto bearing date the _____ day of _____ 19____)
 and thereof appointed me the sole (or) one of the executor(s):

Now, I _____, do hereby declare that I have not intermeddled in the
 estate of the said deceased and will not hereafter intermeddle therein with intent to
 defraud creditors; and I do hereby renounce all my right and title to the Probate and
 execution of the said will.

Signed by the said this _____ day of _____ 19____.

Before me,

Solicitor
(or Commissioner for Oaths).

170.

O. 71, r. 33

ADMINISTRATION OATH

(Title as in Form 168)

I (We), _____ of _____, do make oath (or affirm) and say
 that I (we) will faithfully administer the estate and effects of
 deceased by paying his debts so far as his estate and effects will extend and the law
 requires, and distributing the residue of his estate and effects according to law, and
 that I (we) will render a just and true account of my (our) administration when
 I (we) shall be thereto lawfully required.

Sworn (or affirmed) as in Form 78.

171.

O. 71, r. 34

ADMINISTRATION BOND

KNOW ALL MEN BY THESE PRESENTS THAT WE (I)

of
of
of , and
of

are jointly and severally bound unto the Registrar of the Supreme Court/
Subordinate Courts, in the sum of Dollars (\$) to be paid
to the said Registrar for the time being for which payment to be well and truly
made we (I) bind ourselves (myself) and each of us our (my) heirs, executors and
administrators by these presents sealed with our (my) seals this day of
19 .

THE CONDITION of this obligation is that if the abovebounden the
Administrator of the Estate and Effects of late of
deceased who died on the day of 19 , do well and truly
administer according to law the movable and immovable property of the said
deceased which has or shall come to hands possession or
knowledge or into the hands and possession of any other person for
then this obligation to be void and of no effect but otherwise to
remain in full force and effect.

Truly translated to the)
Obligors)
Through the interpretation)
of)

(Seal)
(Seal)
(Seal)
(Seal)

Before me,

Commissioner for Oaths.

172.

O. 71, r. 35

GRANTS

(Title as in Form 168)

(a) Of Probate.

BE IT KNOWN that at the date hereunder-written the Last Will and Testament (with codicils if such is the case) (a copy whereof is hereunto annexed) of late of deceased who died on the day of at , was proved before this Court, and that Administration of all and singular the movable and immovable property of the estate and effects was committed and granted by this Court to sole executor (or one of the executors or as the case may be) named in the said Will he (or they) being first sworn well and faithfully to administer the same, by paying the just debts of the deceased and the legacies contained in his Will (or will and codicils) and to render a just and true account thereof whenever lawfully required.

Dated this day of 19 .

(Seal)

Registrar.

Date of issue: the day of 19 .

*Registrar.**(b) Of Letters of Administration.*

BE IT KNOWN that at the date hereunder-written Letters of Administration of all and singular the movable and immovable property estate and effects of late of Singapore who died on the day of 19 , were committed and granted to (insert the name and character in which the Grant is taken) he having been first sworn well and faithfully to administer the same by paying the just debts of the deceased and distributing the residue of his property according to law and to render a just and true account of his administration whenever lawfully required.

Dated this day of 19 .

(Seal)

Registrar.

Date of issue: the day of 19 .

Registrar.

Date of issue: the day of 19 .
Registrar.

(e) To an Attorney.

As in (b) above inserting after "granted to _____" the duly constituted attorney of _____ (one of the lawful children and next-of-kin of the said deceased or as may be) for the use and benefit of the said _____ until he shall obtain a grant of letters of administration to himself.

(f) To a Guardian.

As in (b) above inserting after "granted to _____" as the legal guardian of _____ the lawful infant children and next-of-kin of the said deceased, limited until one of the said infants shall obtain a grant to himself.

(g) Of Double Probate

BE IT KNOWN that at the date hereunder-written the last Will and Testament (with codicil(s)) _____ (a copy whereof is hereto annexed) of _____ late of _____ deceased who died on the _____ day of _____ 19____ at _____ was proved before this Court, and that _____ Administration of all and singular the movable and immovable property of the estate and effects was committed and granted by this Court to _____ as _____ of the executors named in the said Will he/she/ they having been first sworn well and faithfully to administer the same by paying the just debts of the deceased and the legacies contained in the said Will (and codicil(s)) and to render a just and true account thereof whenever lawfully required, power being reserved of making the like grant to _____ the other executor(s) named in the said Will.

And be it further known that at the date hereunder-written the said Will of the said deceased (with codicil(s) hereto) (a copy whereof is hereunto annexed) was also proved in this Court, and that the like administration of all and singular the movable and immovable property of the said deceased having been first duly sworn well and faithfully to administer the same, by paying the just debts of the said deceased and the legacies contained in the said Will (and codicil(s)) and to render a just and true account thereof whenever lawfully required.

Dated this _____ day of _____ 19____ .

(Seal)

Registrar.

Date of issue: the _____ day of _____ 19____ .

Registrar.

172A.

O. 71, r. 49

MEMORANDUM OF RESEALING

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE.

Probate)
 No. of 19)

In the Estate of

deceased.

Be it known that this

 having been produced, and a copy thereof deposited with this
 Court, is now sealed this day of 19 pursuant to the Probate
 and Administration Act (Chapter 251) on the petition of .

(Seal).

Registrar.

172B.

O. 71, r. 49

FORM FOR NOTICE OF RESEALING

REGISTRY, SUPREME COURT, SINGAPORE, 19 .

PROBATE No. 19 .

NOTICE OF RESEALING OF GRANT

SIR,

Notice is hereby given that the undermentioned Grant, which was issued under
 the seal of your Court, was, on the date herein stated, resealed in the Registry of
 the Supreme Court of the Republic of Singapore.

Name of Deceased	Nature and Date of Grant	Date of Resealing

*Registrar, Supreme Court,
 Republic of Singapore.*

CAVEAT

WARNING TO CAVEATOR

- (1) to file a notice of appearance in Form 175 either in person or by your solicitor at the Registry of the Supreme Court/Subordinate Courts, setting forth what interest you have in the estate of the abovenamed of deceased, contrary to that of the party at whose instance this warning is issued; or
- (2) if you have no contrary interest but wish to show cause against the sealing of a grant to such party, to issue and serve a summons for directions by the Registrar.

Issued at the instance of (here set out the name and interest including the date of the will, if any, under which the interest arises) of the party warning, the name of his solicitor and the address for service. (If the party warning is acting in person, this must be stated).

175.

O. 71, r. 37 APPEARANCE TO WARNING OR CITATION

(Title as in Form 168)

the Caveat No. dated the day of 19 (or Citation dated the day of 19).

Full name and address of deceased:

Full name and address of person warning (or citor):

Full name and address of caveator (or person cited):

Enter an appearance for the abovenamed caveator (or person cited) in this matter.

Dated this day of 19 .

Solicitors for the

The address for service is

176.

O. 71, r. 41

CITATIONS

(Title as in Form 168 or as may be)

(a) *Citation by Brother To Father To Accept Or Refuse Administration.*

To _____ of _____

Whereas it appears by an affidavit of _____ filed the _____ day of _____ 19____ that _____ of _____ died there on _____ the _____ day of _____ 19____ a bachelor without a mother and intestate, leaving you, _____ his natural and lawful father and next-of-kin:

And whereas it also appears that _____ is the natural and lawful brother of the said _____ deceased, and the natural and lawful son of you _____ :

Now this is to require you, the said _____ that, within 8 days after service hereof, including the day of such service, you do cause an appearance to be entered by you in the Registry of the Supreme Court/Subordinate Courts, and accept or refuse letters of administration of the estate of the said deceased or show cause why the same should not be granted to the said _____ .

And take notice that in default of your so appearing and accepting and extracting the said letters of administration the Court will proceed in the premises according to law, your absence notwithstanding.

Dated this _____ day of _____ 19____ .

(Seal)

The address for service is _____

Registrar.(b) *Citation To Accept Or Refuse Probate.*

To _____ of _____

Whereas it appears by the affidavit of _____ filed the _____ day of _____ 19____ that, _____ of _____ , deceased, died on _____ the _____ day of _____ 19____ , at _____ having made and duly executed his last will and testament bearing date _____ (and now remaining in the Registry) and therein appointed you, the said _____ , the sole executor (or sole executor and residuary legatee and devisee or as may be):

And whereas it further appears by the said affidavit that the said _____ is a creditor (or a legatee named in the said will or as may be):

Now this is to require you, the said _____, that, within 8 days after the service hereof, including the day of such service, you do cause an appearance to be entered by you in the Registry of the Supreme Court/Subordinate Courts, and accept or refuse probate and execution of the said will (or as may be) of the said deceased, or show cause why the same should not be granted to the said _____ as creditor of the said deceased (or as may be):

And take notice that in default of your so appearing and accepting and extracting the said probate of the said will the Court will proceed in the premises according to law, your absence notwithstanding.

Dated this _____ day of _____ 19 ____.

(Seal)

The address for service is _____

Registrar.

(c) *Citation To Bring In Probate (Another Will set up).*

To _____ of _____

Whereas it appears by an affidavit of _____ filed the _____ day of _____ 19 ____ that probate of the alleged last will and testament of _____ of deceased, was, on the _____ day of _____ 19 ____ granted to you by the Court:

And whereas it is alleged in the said affidavit that the said deceased made and duly executed his last will and testament, dated the _____ day of _____ 19 ____, and thereof appointed the said _____, executor (or as may be) and that the said probate ought to be called in, revoked, and declared null and void in law:

Now this is to require you, the said _____ that, within 8 days after service hereof on you, inclusive of the day of such service, you do bring into and leave in the Registry of the Supreme Court/Subordinate Courts, the aforesaid probate in order that the said may proceed in due course of law for the revocation of the same.

Dated this _____ day of _____ 19 ____.

(Seal)

The address for service is _____

Registrar.

(d) Citation To Bring In Probate (Intestacy Alleged).

To _____ of _____

Whereas it appears by the affidavit of _____, filed the _____ day of _____ 19____ that probate of the alleged last will and testament of _____ of _____, deceased, was on the _____ day of _____ 19____, granted to you by the Court, and that the said deceased died a bachelor, leaving the said _____, his natural and lawful father and next-of-kin: And whereas it is alleged in the said affidavit that the said deceased died intestate, and that the said probate ought to be called in, revoked, and declared null and void at law:

Now this is to require you, the said _____ that, within 8 days after service hereof on you, inclusive of the day of such service, you do bring into and leave in the Registry of the Supreme Court/Subordinate Courts, the aforesaid probate in order that the said _____ may proceed in due course of law for the revocation of the same.

Dated this _____ day of _____ 19____.

(Seal)

The address for service is _____

Registrar.

(e) Citation To Bring In Administration (Will set up).

To _____ of _____

Whereas it appears by the affidavit of _____, filed the _____ day of _____ 19____, that letters of administration of all the estate and effects of _____, deceased, were, on the _____ day of _____ 19____, granted to you by the Court:

And whereas it is alleged in the said affidavit that the said deceased made and duly executed his last will and testament, dated the _____ day of _____ 19____, and thereof appointed the said _____, executor (or as may be), and that the said letters of administration ought to be called in, revoked and declared null and void in law:

Now this is to require you, the said _____, that, within 8 days after service hereof on you, inclusive of the day of such service, you do bring into and leave in the Registry of the Supreme Court/Subordinate Courts, the aforesaid letters of administration in order that the said _____, may proceed in due course of law for the revocation of the same.

Dated this _____ day of _____ 19 ____.

(Seal)

The address for service is

Registrar.

(f) *Citation To Bring In Administration (Administrator alleged not to be entitled).*

To _____ of _____

Whereas it appears by the affidavit of _____, filed the _____ day of _____ 19 ____, that letters of administration of all the estate and effects of _____ of _____, deceased, were, on the _____ day of _____ 19 ____, granted to you by the Court, as the natural and lawful brother and one of the next-of-kin of the said deceased:

And whereas it is alleged in the said affidavit that you are not one of the next-of-kin of the said deceased, and that _____ is the said lawful son and only next-of-kin (or as may be) and that the said letters of administration ought to be called in, revoked, and declared null and void in law:

Now this is to require you, the said _____, that, within 8 days after service hereof on you, inclusive of the day of such service, you do bring into and leave in the Registry of the Supreme Court/Subordinate Courts, the aforesaid letters of administration in order that the said _____ may proceed in due course of law for the revocation of the same.

Dated this _____ day of _____ 19 ____.

(Seal)

The address for service is

Registrar.

(g) *Citation To See Proceedings.*

To _____ of _____

Whereas it appears by the affidavit of _____, filed the _____ day of _____ 19____, that there is now pending in the Court, Probate suit entitled _____ and another against _____, No. _____ of 19____, wherein the plaintiffs are proceeding to prove in solemn form of law the alleged last will and testament, dated the _____ day of _____ 19____, at _____.

And whereas it further appears by the said affidavit that you are the natural and lawful _____ and one of the next-of-kin of the said deceased (or a legatee under the alleged will, dated _____ or as may be).

Now this is to give notice to you, the said _____, to appear in the said suit either personally or by your solicitor, should you think it for your interest so to do, at any time during the dependence of the said suit and before final judgment shall be given therein. And take notice that, in default of your so doing, the said Court will proceed to hear the said will proved in solemn form of law and pronounce judgment in the said suit, your absence notwithstanding.

Dated this _____ day of _____ 19____.

(Seal)

Registrar.

The address for service is _____.

(h) *Citation Against Executor Who Has Intermeddled.*

To _____ of _____

Whereas it appears by the affidavit of _____, filed the _____ day of _____ 19____ that, _____ of _____, deceased, died on the _____ day of _____ 19____ at _____ having made and duly executed his last will and testament bearing date _____ (and now remaining in the Registry) and therein appointed you, the said _____, the sole executor (or sole executor and residuary legatee and devisee or as may be):

And whereas it is alleged in the said affidavit that you the said _____ have intermeddled in the estate of the said deceased:

Now this is to require you, the said _____ that, within 8 days after service hereof on you, inclusive of the day of such service, you do cause an appearance to be entered by you in the Registry of the Supreme Court/Subordinate Courts and show cause why you should not be ordered to take probate of the said will under pain of the law and contempt thereof.

The address for service is

177.

O. 73, r. 12 **CERTIFICATE OF ORDER FOR COSTS AGAINST
THE GOVERNMENT**

(Title as in action)

By a judgment (or order) of this Court dated the day of
19 it was adjudged (or ordered) that (give particulars of the
judgment or order).

I hereby certify that the costs payable to by
in pursuance of the said judgment (or order) are \$ (or have been taxed and
certified by me at \$) and interest is payable thereon at the rate of %
per annum from the day of 19 until payment.

Dated this day of 19 .

(Seal)

Registrar.

178.

O. 74, r. 3 **ORDER TO ARREST ABSCONDING JUDGMENT DEBTOR**

(Title as in action)

To the Sheriff/bailiff.

Whereas it has been shown to the satisfaction of the Court that the above-named judgment debtor is about to abscond:

You are hereby commanded to arrest the said and to bring
him forthwith before the Court and if the Court is not sitting to deliver him to the
officer-in-charge of the prison, there to be kept until the next
sitting of the Court when you are to bring him forthwith before the Court.

And you are hereby further required forthwith, after the execution of this
order, to return the same into this Court, with the place, time and mode of
execution endorsed thereon.

Dated this day of 19 .

(Seal)

Registrar.

Entered No. of 19 .
Clerk.

O. 74, r. 3A

(General Title)

O. 74, r. 6

You are hereby ordered to arrest the said _____ and to bring him forthwith before the Court and if the Court is not sitting to deliver him to the officer-in-charge of the _____ Prison there to be kept until the next sitting of the Court when you are to bring him forthwith before the Court in order that he may show cause why he should not furnish security in the sum of \$ _____ being

Note: The property shall not be seized if the defendant pays you the sum of \$ _____ to be deposited by you in Court to abide the trial of the action or further order of the Court.

179A.

O. 74, r. 11A REQUEST FOR JUDGMENT DEBTOR SUMMONS

(General Title)

To the Registrar.

Please issue a Judgment Debtor Summons against (name and description of judgment debtor) of (address of judgment debtor) in respect of the judgment (or order) herein dated the day of 19 which remains unsatisfied to the extent of \$.

A sealed copy of the Judgment is attached hereto.

Dated this day of 19 .

Judgment Creditor
(or Solicitors for)

My address for service is .

179B

O. 77, r. 11C NOTICE OF APPLICATION FOR LEAVE TO
ISSUE JUDGMENT DEBTOR SUMMONS

(General Title)

Take notice that the abovenamed plaintiff intends to apply to the Court of the Subordinate Courts, Upper Cross Street, Singapore, on the day of 19 at m. for leave to issue a judgment debtor summons against on the ground that the abovenamed is liable as a partner in the firm of (name of defendant firm) or as the person carrying on business in the firm of (name of defendant firm) to pay the sum payable under the judgment (or order).

Dated this day of 19 .

(Seal)

Registrar.

Entered No. of 19 .
Clerk

You are hereby summoned to appear before the Court of the Subordinate Courts, on the day of 19 at m. then and there to be examined respecting your ability to satisfy the judgment recovered against you in the above action on the day of 19 for \$ and \$ costs upon which judgment the sum of \$ is still due.

Entered No. of 19 .
Clerk

To:

(Name of person (one person only to each summons) alleged to be a partner in, or carrying on business in the name of, the firm against which judgment (or order) has been obtained) of .

(c) *To an officer of a corporation.*

You are hereby summoned to appear before the Court of the Subordinate Courts, on the day of 19 at m. then and there to be examined on the ability of the abovenamed defendant corporation to satisfy the judgment (or order) recovered (or made) against the said corporation in the above action on the day of 19 for \$ and costs of \$ upon which judgment (or order) the sum of \$ is still due.

Take notice that if you do not so appear an order for your arrest may be issued.

Dated this day of 19 .

(Seal)

Registrar.

Entered No. of 19 .
Clerk.

To of (an officer) of the abovenamed defendant corporation.

(d) *In respect of an order of the Commissioner for Labour.*

(Title as in Form 174).

You are hereby summoned to appear before the Court of the Subordinate Courts, on the day of 19 at m. then and there to be examined respecting your ability to satisfy the order made against you by the Commissioner for Labour on the day of 19 whereby you were ordered to pay \$ to and whereof a certificate signed and sealed by the Commissioner for Labour was on the day of 19 filed and recorded in this Court under which order the sum of \$ is still due.

Dated this day of 19 .

Registrar.

To the abovenamed judgment debtor.

O. 74, r. 12

(Title as in action)

- (a) Full name and address of judgment debtor.
- (b) Date and particulars of the order for payment in respect of which default has been made.
- (c) The total amount which has been paid since the date of such order.
- (d) The sum or instalment in respect of which default has been made.
- (e) The date on which the same ought to have been paid according to the order.
- (f) The debtor's occupation, circumstances and means of payment as they are known to the applicant.

Sworn (or affirmed) as in Form 78.

181.

O. 74, r. 13

JUDGMENT NOTICE

(Title as in action)

To the judgment debtor.

Take notice that you are required to attend the Supreme Court/Subordinate Courts on the day of 19 at m. to show cause why you should not be committed to Prison for having disobeyed the order of the Court dated the day of 19 , that is to say, in having made default in payment of the instalment due thereunder (or here state the order disobeyed or not complied with).

(Seal)

Entered No. of 19 .
Clerk.

Registrar.

182.

O. 74, r. 15

ORDER OF COMMITMENT

(Title as in action).

To the Sheriff/bailiff.

Whereas an order was made by the Court on the day of 19 , whereby it was ordered that , the abovenamed judgment debtor pay the judgment debt and costs by instalments of \$ a month (or as may be):

And whereas he has made default in the payment of instalment amounting to \$ (or as may be):

You are hereby commanded to arrest the said and to deliver him to the officer-in-charge of the Prison, there to be kept for the term of days from the arrest under this Order or until earlier payment of the instalment due amounting to \$ (or as may be).

Dated this day of 19 .

(Seal)

Registrar.

Entered No. of 19 .
Clerk.

Note: The judgment debtor shall not be arrested if he pays to you the said sum of \$ to be deposited by you in Court.

183.

O. 74, r. 17

CERTIFICATE OF SATISFACTION

(Title as in action)

I, _____ of _____, being the judgment creditor, hereby certify that the judgment debt in respect of which the judgment debtor is imprisoned has been satisfied and I request that the said be discharged from detention.

Dated this _____ day of _____ 19 ____.

Signed by _____)
 the _____ day of _____)
 19 ____ in the presence of _____)

*Commissioner for Oaths,
 Singapore.*

To the Officer-in-charge of the _____ Prison.

This certificate is sufficient authority for the discharge of the judgment debtor from detention under the Order of Commitment No. _____ of 19 ____ issued in respect of non-payment of the judgment debt.

Dated this _____ day of _____ 19 ____.

(Seal)

Registrar.

184.

O. 74, r. 17

ORDER OF DISCHARGE

(Title as in action)

To the Officer-in-charge of the _____ Prison.

Whereas it has been shown to the satisfaction of the Court that the judgment debtor has satisfied the judgment debt in respect of which he is imprisoned under an Order of Commitment No. _____ of 19 ____ dated the _____ day of 19 ____, in the above action.

Sworn (or affirmed) as in Form 78.

186.

O. 75, r. 2

AUTHORITY TO DISTRAIN

(Title as in action)

I (We), _____ of _____, hereby authorise
 of _____ to apply on my (our) behalf under the Distress Act (Chapter 84)
 for a writ of distress for all the arrears of rent now due to me (us) (or to be hereafter
 due) on property situated at (describe property) to which I (we) am (are) entitled
 to distress as (owner, lessee, trustee, guardian or as may be (or together
 with _____)).

Dated this _____ day of _____ 19 ____.

Signed by _____)
 the _____ day of _____)
 19 ____ in the presence of _____)

Solicitor (or Commissioner for Oaths).

187.

O. 75, r. 3

WRIT OF DISTRESS

Distress No. _____)
 _____)
 of 19 ____ . _____)

Between

Plaintiff

and

Defendant

To the Sheriff/bailiff.

I hereby direct you to distress the movable property found on the premises No.
 (give full address) _____ for the sum of dollars _____ and cents _____,
 (\$ _____) being the amount of _____ months' rent due to
 for the same, from the _____ day of _____ 19 ____ to the _____ day of
 19 ____, together with costs amounting to \$ _____ and the
 prescribed fees and the expenses of executing this Writ, according to the provisions
 of the Distress Act (Chapter 84).

Registrar.

189.

O. 76, r. 3

**CONSENT OF NEXT FRIEND OR GUARDIAN
AD LITEM OF PERSON UNDER DISABILITY**

(Title as in action)

I, _____ of _____, consent to be next friend (or guardian *ad litem*) of the abovenamed plaintiff (or defendant), an infant (or a patient) in this action, and I authorise _____ of _____, Advocates and Solicitors, to act on my behalf.

Dated this _____ day of _____ 19____.

Signed by the said _____)
the _____ day of _____ 19____,)
in the presence of _____)
_____)

Solicitor
(or *Commissioner for Oaths*).

190.

O. 76, r. 3

**CERTIFICATE BY SOLICITOR FOR PERSON
UNDER DISABILITY**

(Title as in action)

I, _____ of _____, solicitor for the next friend (or guardian *ad litem*) hereby certify that I know (or believe) that (name of infant) (or name of patient) is (an infant) (or a patient) (give the grounds of knowledge or belief) and that the abovenamed (name of next friend) (or name of guardian *ad litem*) has no interest in the cause (or matter) in question adverse to that of the infant (or the patient).

Dated this _____ day of _____ 19____.

Solicitor for the

191.

O. 77, r. 2 ORDER FOR PARTICULARS (PARTNERSHIP)

(Title as in action)

Upon the application of _____ and upon reading the affidavit
of _____ filed the _____ day of _____ 19____, and upon hearing

It is ordered that the _____ furnish the _____ with a
statement in writing, verified by affidavit, setting forth the names of the persons
constituting the members or co-partners of their firm, pursuant to the Rules of
Court, Order 77, Rule 2, and that the costs of this application be _____.

Dated this _____ day of _____ 19____.

(Seal)

Registrar.

192.

O. 77, r. 3 NOTICE OF SERVICE ON MANAGER OF PARTNERSHIP

(Endorsed on Writ of Summons)

Take notice that the writ of summons is served on you as the person having the
control or management of the partnership business of the abovenamed defendant
firm of _____ (and also as partner in the said firm (a).)

Solicitors for the Plaintiff.

Note: (a) If the person served with the writ of summons is served in the two
capacities of manager and partner, the clause should be left standing. If he
is served as manager only, it should be struck out.

192A.

O. 85A, r. 2

**ORIGINATING SUMMONS UNDER
HIRE-PURCHASE ACT (CHAPTER 125)**

(General Title)

Take notice that you are required to attend the _____ Court of the
Subordinate Courts, on the _____ day of _____ 19____ at _____ m., on the
hearing of an application by the plaintiff for the following orders:

- (a) an order re-opening the hire-purchase transaction between the plaintiff and the defendant;
- (b) an order directing an account to be taken between the plaintiff and defendant in respect of the transaction;
- (c) an order relieving the plaintiff from payment of any sum in excess of \$ _____ ;
- (d) an order setting aside the hire-purchase agreement made between the plaintiff and the defendant on (date);
- (e) an order giving judgment for the plaintiff against the defendant for the sum of \$ _____ ;
- (f) an order adding as a party to this application one X.Y.;
- (g) an order giving judgment for the plaintiff against the said X.Y. for such sum as this court shall think fit; and
- (h) such further and other relief as this Court shall think fit.

Upon the grounds:

- (i) that the transaction is harsh and unconscionable;
- (ii) that the transaction is such that a court of equity would grant relief to the application therefrom; and
- (iii) that the said X.Y. has shared in the profits of or has had a beneficial interest prospectively or otherwise in the transaction.

Dated this _____ day of _____ 19____ .

Entered No. of _____ 19____ .

(Seal)

Registrar.

Clerk.

This summons is issued by, etc.

To

192B.

O. 89C, r. 2 REQUEST FOR ENFORCEMENT OF ORDER OF
COMMISSIONER FOR LABOUR

(Title as in Form 192D)

Please enforce the order of the Commissioner for Labour under section
of the Employment Act (Chapter 91) in No. E of 19 dated the day
of 19 for the sum of in favour of
of by way of judgment debtor summons (or writ of seizure and
sale).

\$

Amount of the order
Amount paid to account
Balance due

The person to be served (or the property to be seized) will be pointed out by
the (or one of the) complainant(s) who will pay the transport
expenses of the process server (or the expenses of the bailiff for executing the writ
of seizure and sale and any deposit required).

The sealed copy of the certificate of the order is attached.

Dated this day of 19 .

(Seal)

Commissioner for Labour.

To The Registrar,
Subordinate Courts.

O. 89C, r. 4 **REGISTER OF ORDERS OF THE COMMISSIONER
FOR LABOUR**

(Title as in Form 192D)

Order — (Here set out the order)

Date of proceedings	Nature	Result
---------------------	--------	--------

O. 98C, r. 6	TITLE OF PROCEEDINGS SUBORDINATE COURT SINGAPORE
--------------	--

And in the matter of a prohibitory order dated the day of
19 . made by the Commissioner for Labour under the Employment Act
against).

193.

O. 90, r. 4

**AUTHORITY TO COMPANY TO
REGISTER TRANSFER**

(Title as in action)

To the Co. Ltd.,

Singapore.

Please register transfer of shares Nos. from to the
Accountant-General.

Dated this day of 19 .

Accountant-General.

CERTIFICATE OF TRANSFER

The abovementioned shares have this day been transferred as authorised.

Dated this day of 19 .

Secretary of the Co. Ltd.

194.

O. 90, r. 11

STATUTORY DECLARATION

(Title as in action)

Ledger Account (if the same as the cause state 'as above'). I (name and address of applicant) solemnly and sincerely declare that I am the (degree of relationship) and next or one of the next-of-kin of (name of deceased) and that I am entitled to take out letters of administration to his estate and to receive the sum of \$ directed to be paid to him by the Order dated the day of 19 . And I further declare that the total value of the assets of the deceased including the above sum does not exceed \$10,000 and I certify that the funeral and other testamentary expenses of the deceased have been paid. And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Applicant.

Declared before me this day of 19 .

(Name and designation of officer administering oath)

195.

O. 90, r. 18.

ACCOUNT BOOK

RECEIPTS

Date	From whom received	No. of action or proceedings	To whose credit paid	No. of Receipt	Amount Received	Amount Banked	Date of Payment

PAYMENTS

Date	To whom paid	No. of action or proceedings	No. of cheque	Amount paid in cash	Amount paid by cheque	Page and Book No. of Account Book (Receipts)

1725

S 71/96

196.

O. 90, r. 28

SUBORDINATE COURTS INSTALMENT LEDGER ACCOUNT

Particulars of Account:

Court Order No. _____

Summons No.

Date of Court Order _____ No. _____

Parties		
Amount of instalment. \$	Date Due.	Amount of Judgment. \$

RECORD OF RECEIPTS AND PAYMENTS

Paid by J.D. on	Amount. \$ c.	Signature of J.D.	Total \$ c.	Received by †J.C. on	Amount. \$ c.	Signature of †J.C.	Total \$ c.

Note: This card must be completed on each occasion a debtor pays in and on each occasion a creditor receives a payment.

J.D. = Judgment Debtor
†J.C. = Judgment Creditor

S 71/96

1726

[O. 91, r. 1]

Rules of Court

APPENDIX B

COURT FEES

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
	<i>Commencement of a cause or matter</i>	\$	\$	\$	
1.	On sealing a writ of summons for the commencement of an action	150	150	100	The filed copy.
2.	On sealing an originating summons	150	150	75	The filed copy.
3.	On sealing a renewed writ of summons	50	50	25	The filed copy.
4.	On sealing an amended writ of summons or an amended originating summons	20	20	12	The filed copy.
5.	On presenting an originating petition where no other fee is specifically provided	150	—	—	The filed copy.
6.	On sealing an originating notice of motion	150	—	—	The filed copy.
7.	On amending an originating notice of motion	20	—	—	The filed copy.
8.	On any other form of commencement of a cause or matter where no fee is specifically provided	—	150	75	The filed copy.
	<i>Appearance</i>				
9.	On entering an appearance for each person	20	20	20	The filed copy.
10.	On amending the same	20	20	20	The filed copy.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
<i>Interlocutory applications</i>					
11.	On sealing a summons under Order 14, Order 18, Rule 18 or Order 33, Rule 2	100	100	50	The filed copy.
12.	On sealing an ex parte application (whether by summons or other process) seeking relief in the form of an injunction, Anton Piller order, an order for discovery or an order for arrest of a debtor	250	150	—	The filed copy.
13.	On sealing other summons	20	20	10	The filed copy.
14.	On sealing a notice for attendance in Chambers on an originating summons to which an appearance is required to be entered	100	100	100	
15.	On filing a notice of motion (except a motion for judgment) or a case on motion where no motion is filed	100	—	—	The filed copy.
16.	On sealing a notice under Order 16, Rule 1, 8 or 9	150	150	100	The filed copy.
17.	On bespeaking a request for the service of process or notice thereof out of the jurisdiction	50	50	25	Praeipie.
18.	On sealing a commission or letter of request for the examination of witnesses abroad	50	50	25	Praeipie.
19.	On every appointment for the examination of a witness by an officer of the Court	50	50	50	Praeipie.
20.	On every witness sworn and examined by an officer of the Court, for each hour or part thereof	100	100	50	Praeipie.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
Entering or setting down for trial or hearing in Court					
21.	On setting down a cause or matter for hearing or judgment or on a point of law	200	200	150	Praecipe.
22.	On entering or setting down any cause or matter for further consideration	50	50	35	Praecipe.
23.	On sealing a writ of subpoena ad testificandum or duces tecum, other than an instanter subpoena, for each witness	10	10	10	Praecipe.
24.	On sealing an instanter subpoena for each witness	20	20	20	Praecipe.
Note:—An instanter subpoena is one issued less than 3 days before the trial of an action.					
25.	On sealing every writ of execution, distress, order of committal, arrest or attachment of property —	50	50	—	The filed copy.
	(a) where it is a Small Claims action	—	—	15	—
	(b) in any other case	—	—	35	—
26.	On an originating summons for the issue of writ of distress	150	150	—	The filed copy.
Judgment and orders					
27.	On entering or sealing any order made in Chambers	50	50	25	Order.
28.	On entering or sealing a judgment or order given, directed or made in the trial, hearing or further consideration of a cause or matter in Court	100	100	50	Order or Judgment.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
29.	On entering or sealing a judgment pursuant to an order or certificate made in Chambers	50	50	25	Judgment.
30.	On entering or sealing an order for admission of a Queen's Counsel under the Legal Profession Act (Chapter 161)	1,000	—	—	
31.	On entering or sealing any other judgment or order where no other fee is specifically provided for	50	50	25	Order or Judgment.
<i>Miscellaneous</i>					
32.	On presenting a petition of course	150	—	—	The filed copy.
33.	On adjourning from Chambers into Court —				
	(a) an originating summons	100	100	50	Praecipe.
	(b) any other summons or matter	50	50	25	—
34.	On taking an account of moneys received by a receiver, committee or guardian, consignee, bailee, manager, provisional official or voluntary liquidator, or of an executor, administrator or trustee, agent, solicitor, mortgagee, co-tenant, co-partner, execution creditor, or other person liable to account, when the amount found to have been received without deducting any payment shall not exceed \$1,000	50	50	50	Certificate

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
35.	Where such amount shall exceed \$1,000 for every \$500 or fraction of \$500 <i>Note:—In the case of any such receiver, committee, guardian, consignee, bailee, manager, liquidator, or execution creditor, the fees shall upon payment be allowed in the account, unless the Court shall otherwise direct, and in the case of taking the accounts of such other accounting parties the fees shall be paid by the party having the conduct of the order under which such account is taken as part of his costs in the cause or matter, unless the Court shall otherwise direct and in such case shall be taken upon the certificate of the result of any such account, but the fees shall be due and payable although no certificate is required on the account taken or such part thereof as may be taken, and the solicitor or party suing in person shall in such case cause the proper stamps, the amount thereof to be fixed by the Registrar, to be impressed on the account.</i>	5	5	5	Certificate
36.	On signing, settling or approving an advertisement	50	50	50	The filed copy.
37.	On settling a lodgment schedule for payment into Court of purchase or other money	20	20	20	Schedule.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
38.	On settling a deed or other instrument, or particulars and conditions of sale, whether together or separately	100	100	50	Draft.
39.	On fixing the reserve on a sale out of Court	100	100	50	Proposed reserve.
40.	On every reference to an officer of the Court	100	100	50	Praeipie.
41.	On sealing a notice of appeal from a Registrar to a Judge of the High Court in Chambers	150	150	150	The Notice.
42.	On sealing a notice of appeal from a Registrar to a District Judge in Chambers	—	100	100	The Notice.
<i>Probate</i>					
43.	On filing petition for Probate or Letters of Administration, or for re-sealing the same, including the fees for taking and filing the affidavit verifying the petition, and on answering and setting down the petition for hearing in Court	150	80	—	Petition.
44.	On extracting Grant of Probate or Letters of Administration or for re-sealing the same.	100	20	—	Praeipie.
45.	On engrossing copy of a will or codicil or of any translation thereof or other document to annex to Grant or for exemplification	5 plus 1 per page	5 plus 1 per page	—	Praeipie.
46.	If in any other language per page of the English translation	1	1	—	Praeipie.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
47.	On every exemplification of a Probate or Letters of Administration, with or without the will annexed in addition to the fees for engrossing	50	20	—	Praecept.
48.	On entry of every caveat including notice to the other Registries and notice to the petitioner	50	50	—	The filed copy.
49.	On withdrawing a caveat including notice	20	20	—	The filed copy.
50.	On settling or sealing a citation	50	20	—	The filed copy/ Certificate.
<i>Admiralty</i>					
51.	On filing —				
	(a) a consent to release	50	—	—	The Consent.
	(b) a praecipe under Order 70, Rule 4 (3), 5 (1), 7 (3), 12 (5) (b), 13 (1), or 22 (1) or a notice under Order 70, Rule 12 (2)	50	—	—	Praecipe or Notice.
	(c) an agreement under Order 70, Rule 33	50	—	—	The Agreement.
	(d) an admission of liability	50	—	—	The Admission.
	(e) a request for the attendance of assessors	50	—	—	Praecipe.
	(f) any other document	50	—	—	The document filed.
52.	On entering a reference for hearing by the Registrar	200	—	—	Praecipe.
53.	On a certificate by the Registrar as to a judgment or order	50	—	—	Certificate.
54.	On lodging with the Sheriff a warrant, release, decree, order, Commission or other instrument	100	—	—	The Instrument.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
55.	On the appointment and swearing of appraisers including the drawing of the affidavit for the appraiser	100	—	—	The Affidavit.
56.	On the delivery of a ship or goods to a purchaser	100	—	—	To be deducted by Sheriff.
57.	On the sale of a ship or goods, commission of 5% to be charged on the first \$1,000 and 2½% upon all above that sum, such sum to include the auctioneer's or broker's commission	—	—	—	To be deducted by Sheriff.
58.	On the release of a ship or goods from arrest, commission of \$500 plus 10 cents a ton to be charged for every month during arrest or any part thereof	—	—	—	To be paid in cash to the Sheriff by the party requesting the arrest.
	<i>Note:—In the case of a ship the commission shall be calculated on the net registered tonnage of such ship at the time the commission becomes payable, but where the net registered tonnage of the ship has not been ascertained, the gross tonnage shall be deemed to be the net registered tonnage of the ship</i>				
59.	For attending the discharge of a cargo or the removal of a ship or goods, per hour or part thereof —				Sheriff's Certificate of execution.
	(a) between 9 a.m. and 4 p.m. on any working day from Monday to Friday and between 9 a.m. and 12 noon on any working day falling on a Saturday	50	—	—	
	(b) at any other time	100	—	—	

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
60.	For the attendance by the Sheriff, his substitutes or his bailiffs for the arrest or seizure of a ship, per hour or part thereof —				To be paid in cash to the Sheriff by the party requesting the arrest.
	(a) between 9 a.m. and 4 p.m. on any working day from Monday to Friday and between 9 a.m. and 12 noon on any working day falling on a Saturday	100	—	—	
	(b) at any other time	200	—	—	
	<i>Appeal from High Court</i>				
61.	On filing a notice of appeal	300	—	—	The Notice.
62.	Any interlocutory application	100	—	—	Application.
63.	On filing an Appellant's Case or a Respondent's Case	100	—	—	The Case.
64.	On filing an Amended Appellant's Case or an Amended Respondent's Case	100	—	—	The Amended Case.
65.	Judgment or order of Appellate Court —	—	—	—	Original.
	(a) Order on any interlocutory application	100	—	—	
	(b) Final order on appeal	100	—	—	
66.	Preparing Index for every page of the documents referred to in the Index	1	—	—	Praecipe.
	<i>Appeals to High Court</i>				
67.	On filing a notice of appeal to High Court	—	300	300	The Notice.
68.	On filing a respondent's notice	—	100	100	The Notice.
69.	Any interlocutory application pending appeal	—	100	100	Application.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
70.	On filing a Petition of Appeal	—	100	100	Original or Praecept.
	<i>Filing</i>				
71.—(1)	On every application for search of information —				
	(a) maintained in the paper form per book/register per year	10	10	10	Praecept.
	(b) maintained in electronic form —				To be paid to the organisations providing the information.
	(i) per search term per database per year —				
	(aa) on the index of the database				
	– through service bureau	16	16	16	
	– through remote access via commercial network	13	13	13	
	(bb) on the contents of the database				
	– through service bureau	16	16	16	
	– through remote access via commercial network	13	13	13	

<i>No.</i>	<i>Items</i>	<i>Fees</i>			<i>Document on which stamp is to be affixed and remarks</i>
		<i>High Court</i>	<i>District Court</i>	<i>Magistrate's Court</i>	
		\$	\$	\$	
	(ii) per search term per year for all data-bases on the index of the databases of —				
	(1) the Supreme Court or the Sub-ordinate Courts				
	– through service bureau	25	25	25	
	– through remote access via commercial network	22	22	22	
	(2) the Supreme Court and the Sub-ordinate Courts				
	– through service bureau	40	40	40	
	– through remote access via commercial network	37	37	37	

(2) The Registrar may waive the collection of, or refund, in whole or in part, any fee under this item.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
72.	On filing affidavit, for every page or part thereof including exhibit annexed thereto or produced therewith (whether filed or not) subject to a minimum fee of \$10 per affidavit	1 per page	1 per page	1 per page	The filed copy.
73.	On amending each pleading	50	50	25	The Pleading
74.	On an application to search for appearance, for each defendant in respect of whom search is made including certificate of the result of the search	20	20	10	Praeipie or Certificate, as the case may be.
75.	On any other search, including inspection, for each half hour or part thereof occupied	10	10	10	Praeipie.
76.	On every certificate or report by the Registrar not otherwise provided for	20	20	10	Certificate or Report.
<i>Copies of documents</i>					
77.	On making a copy and marking the same as an office copy for each page thereof	5	5	5	Praeipie.
78.	For examining a plain copy and marking the same as an office copy per page	2	2	2	Praeipie.
79.	On an application to be allowed to copy any document filed or lodged in Court, for each document	5	5	5	Praeipie.
<i>Translations</i>					
80.	On a certified translation by an Interpreter of the Court	5 per page or part thereof	5 per page or part thereof	5 per page or part thereof	Praeipie.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
81.	On checking, correcting and certifying a translation not made by an Interpreter of the Court	5 per page or part thereof	5 per page or part thereof	5 per page or part thereof	Praeipie.
	<p><i>Note:—On presentation of the praecipe which must be signed and dated, it must bear a stamp for at least the first page of translation. The pages will be reckoned on the English translation when ready and the fee must be made up to the full amount before the translation can be delivered.</i></p> <p><i>Accountant-General's Office</i></p>				
82.	On a certificate of the amount and description of any moneys, funds or securities, including the request therefor	20	20	10	Request.
83.	On a transcript of an account for each opening, including the request thereof	20	20	10	Request.
84.	(a) On paying, lodging, transferring or depositing funds in Court	20	20	10	Direction.
	(b) On paying out of Court any money lodged or deposited in Court	20	20	10	Direction.
85.	On a request to the Accountant-General for information in writing respecting any moneys, funds or securities in Court or any transaction in his office	20	20	10	Request.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
<i>Taxation of Costs</i>					
86.	On taxing a bill of costs — For every \$50 allowed or a fraction thereof, subject to a minimum fee of \$100: Provided that the Registrar may in any case require the bill of costs to be stamped before taxation with the whole or part of the amount of fees which would be pay- able if the bill was allowed by him at the full amount thereof	3	3	2	Bill of Costs.
87.	On certificate of the result of the taxation <i>Note:</i> —Where a plaintiff is entitled to a lump sum for costs under Appendix 2 of Order 56 or 57 the same fees shall be payable as if a bill of costs had been taxed for the amount of such lump sum, and a certificate had been signed.	20	20	10	Certificate or Note of Costs
88.	On the withdrawal of a bill of costs which has been lodged for taxation, such fee (not exceeding the amount which would have been payable under Fee No. 86 if the bill had been allowed in full) as shall appear to the Registrar to be fair and reasonable, subject to a minimum fee of	100	100	50	—
<i>Companies</i>					
89.	On presenting a petition under the Companies Act (Chapter 50) for which no fee is specifically provided	150	—	—	Petition

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
<i>Commissions</i>					
90.	On sealing or issuing a Commission to take oaths or affidavits or acknowledgements in the Supreme Court	250	—	—	Commission
91.	Upon an application or the production of records or documents to be given in evidence —	20	20	10	Praeceptum.
	(a) where the records or documents are left in Court	100	100	60	Praeceptum.
	(b) where an officer is required to produce the records or documents in Court				
92.	For the attendance of an officer of the Court as a witness for every half day or part thereof that he is necessarily absent from his office	100	100	100	Praeceptum.
93.	On taking or re-taking an affidavit or a declaration in lieu of an affidavit, or a declaration or an acknowledgement for each person making the same	20	20	10	Affidavit or Declaration.
	And in addition for each exhibit referred to therein and required to be marked	5	5	5	Affidavit
94.	On each document referred to in a deposition and required to be marked	5	5	5	Deposition
95.	On taking an affidavit before an Advocate and Solicitor who is appointed as Commissioner for Oaths	20	20	20	—

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
96.	For each exhibit referred to in an affidavit sworn before an Advocate and Solicitor who is appointed as a Commissioner for Oaths <i>Note:—The fees under items 95 and 96 shall be payable to the Commissioner and shall be in lieu of the Court fees of \$20 and \$5 in Supreme and District Court cases and \$10 and \$5 in Magistrate's Court cases chargeable under item 93.</i>	5	5	5	—
97.	Praeipe for Direction to Sheriff/Bailiff	50	50	50	Praeipe.
98.	On approving —				
	(i) a guarantee	50	50	50	The Guarantee.
	(ii) an undertaking in lieu of a guarantee	50	25	25	The Undertaking.
99.	On taking a recognizance or bond, whether one or more than one recognizer or obliger, and whether entered into by all at one time or not.	100	100	50	Original.
100.	On sealing or issuing any document, not being a judgment or order, where no other fee is prescribed by this Appendix: Provided that this fee is not payable on a writ of habeas corpus	20	20	20	The Document sealed or issued.
<i>Sheriff's/Registrar's Office</i>					
101.	For each attempt at service on each person of any process or proceeding required to be served by the Court or Registrar or Sheriff	30	30	15	Praeipe.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
102.	For executing every writ of execution, distress, order of committal, arrest or attachment of property	100	100	50	The Document filed or Praecept.
103.	Praecept for direction to Sheriff/bailiff	50	50	25	—
104.	For each request for a date to be appointed for the execution of a writ of execution or distress	100	100	—	Praecept.
	(a) where it is a small claims action	—	—	20	—
	(b) in any other case	—	—	50	—
	Provided that the Registrar may, in his discretion, waive or refund the whole or part of any fee payable or paid under this item				
105.	On marking a writ of execution for renewal	50	50	30	Praecept.
106.	For releasing property seized by instruction of party issuing the writ of execution or distress, order of attachment, arrest or attachment of property	20	20	12	Praecept.
107.	Commission of 5% to be charged on the first \$1,000 and 1% upon all above that sum when levied by seizure and sale or distress, subject to a minimum of \$100 and a maximum of \$20,000	—	—	—	To be deducted by the Sheriff or Registrar.
	<i>Note:</i> —Where the sale is made by private contract, only half the commission will be payable	—	—	—	To be deducted by the Sheriff or Registrar.
108.	Commission of 4% to be charged on all money received by the Sheriff/Registrar under garnishee summons	—	—	—	To be deducted by the Sheriff or Registrar.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
109.	Commission of 4% to be charged on all money received by the Sheriff/Registrar under an Order for the attachment before judgment of money belonging to the debtor in the hands of a third party	—	—	—	To be deducted by the Sheriff or Registrar.
110.	One half of the commission chargeable under item 107 to be charged on all money received by the Sheriff/Registrar in satisfaction of a writ of seizure and sale or distress where an execution is withdrawn, satisfied or stopped	—	—	—	To be deducted by the Sheriff or Registrar.
111.	One half of the commission chargeable under item 107 to be charged on the estimated value of the property seized or the amount stated in the writ whichever is the lesser where the execution is withdrawn, satisfied or stopped	—	—	—	To be paid in cash to the Sheriff or Registrar by the Execution Creditor.
112.	For each person employed in taking charge of any property under seizure	Actual cost	Actual cost	—	To be paid in cash to the Sheriff or Registrar or direct payment on vouchers certified by the Sheriff or Registrar.
113.	For removal of goods or animals to a place of safe keeping, when necessary	Actual cost	Actual cost	—	To be paid in cash to the Sheriff or Registrar.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
114.	Where goods or animals are for warehousing and taking charge of the same, including feeding of animals, 2% on the value of the goods or animals removed or the sum endorsed on the writ of execution, whichever is the less, plus actual cost incurred. No fees for keeping possession of the goods or animals shall be charged after the goods or animals have been removed.	Actual cost plus 2%	Actual cost plus 2%	—	To be paid in cash to the Sheriff or Registrar.
115.	For advertising and giving publicity to the sale by auction <i>Note:—In every case where the execution is withdrawn, satisfied or stopped the fees shall be paid by the person at whose instance the sale is stopped, and the amount of any costs or charges payable under this Appendix shall be taxed by a Judge, in case the Registrar/Sheriff and the party liable to pay such costs and charges differ as to the amount thereof.</i>	Actual cost	Actual cost	—	To be paid in cash to the Sheriff or Registrar.
116.	For the return of any writ or process and filing same, exclusive of the fee paid on filing	20	20	—	The Return.
117.	For the attendance by the Registrar/Sheriff, his substitutes or his bailiffs on any place of execution, or for the arrest of a debtor per hour or part thereof —				

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
	(a) between 9 a.m. and 4 p.m. on any working day from Monday to Friday and between 9 a.m. and 12 noon on any working day falling on a Saturday	50	50	50	—
	(b) at any other time	100	100	100	—
PROCEEDING UNDER THE FOLLOWING:					
(A) ADOPTION OF CHILDREN ACT (CHAPTER 4)					
(B) GUARDIANSHIP OF INFANTS ACT (CHAPTER 122)					
(C) INHERITANCE (FAMILY PROVISION) ACT (CHAPTER 138)					
(D) MENTAL DISORDERS AND TREATMENT ACT (CHAPTER 178)					
118.	On sealing any form of commencement of a cause or matter	60	—	—	The filed copy.
119.	On entering appearance for each person	10	—	—	The filed copy.
120.	On sealing a notice of attendance at Chambers on an originating summons to which an appearance is required to be entered	10	—	—	The filed copy.
121.	On sealing any form of interlocutory application including ex parte application for an injunction, Anton Piller order, an order for discovery or an order for arrest of a debtor	20	—	—	The filed copy.
122.	On filing affidavit, for every page or part thereof including exhibit annexed thereto or produced therewith (whether filed or not) subject to a minimum fee of \$10 per affidavit	1	—	—	The filed copy.
123.	On setting down a cause or matter for hearing or judgment or on a point of law or for further consideration	100	—	—	Praecipe.

No.	Items	Fees			Document on which stamp is to be affixed and remarks
		High Court	District Court	Magistrate's Court	
		\$	\$	\$	
124.	On entering or sealing any judgment or order, whether made in Chambers or in Court	50	—	—	Judgment or Order.
125.	On sealing or amending any document	10	—	—	The document filed.
126.	On filing a notice of appeal	150	—	—	The Notice.
127.	On filing a respondent's notice	100	—	—	The Notice.
128.	On filing any interlocutory application to Court of Appeal	50	—	—	Application.
129.	On filing a petition of appeal	50	—	—	Petition.
130.	Judgment or order of Court of Appeal —				Original.
	(a) order on any interlocutory application	50	—	—	
	(b) final order on appeal	100	—	—	
131.	On filing a petition for adoption, including the fees for taking and filing the affidavit, verifying the petition and setting down the petition for hearing in Court	—	100	—	The filed copy.
132.	Request for payment out of moneys paid into Court under instalment order	—	5% of sum to be paid out	—	Request.
133.	On filing any other document for which no fee is specifically provided	10	10	10	The document filed.
134.	For an application for the refund of the fee paid for any unused document.	50	20	20	Praecipe.

Made this 12th day of February 1996.

YONG PUNG HOW
Chief Justice.

CHAN SEK KEONG
Attorney-General.

M. KARTHIGESU
Judge of Appeal.

L.P. THEAN
Judge of Appeal.

LAI KEW CHAI
Judge.

G.P. SELVAM
Judge.

JUDITH PRAKASH
Judge.

RICHARD R. MAGNUS
Senior District Judge.

TAY YONG KWANG
District Judge.

MICHAEL KHOO KAH LIP
Advocate and Solicitor.

R.E. MARTIN
Advocate and Solicitor.

I hereby certify that the above is a true copy of the Rules made by the Rules Committee under section 80 of the Supreme Court of Judicature Act.

Made this 12th day of February 1996.

YONG PUNG HOW
Chief Justice.

[RSCS R7/7; AG/SL/32/94/2]

(To be presented to Parliament under section 80 (5) of the Supreme Court of Judicature Act).