

JUDGMENTS (ENFORCEMENT) RULES

Arrangement of Orders

Part I Preliminary

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Part I Preliminary

1. These Rules may be cited as the Judgments (Enforcement) Rules.
2. In these Rules, unless the context otherwise requires-
 - "the Act" means the Sheriffs and Civil Process Act.
 - "bailiff " except in relation to salary and other emoluments, includes police officer acting under section 15 of the Act;
 - "execute", "executed", "execution", respectively include "serve", "served" "service";
 - "foreign court" means court to which process has been sent from another court for execution;
 - "form" means a form in the First Schedule to the Act or added thereto by these Rules;

"High Court" includes court of a judicial division of the High Court;

"home court" means court from which process has been sent to another court for execution;

"immovable property" includes any right, title, or interest in immovable property;

"judgment" includes order on a judgment summons;

"land" includes buildings;

"officer" includes "registrar" and sheriff, but does not include "bailiff";

"proceeding" includes civil proceeding, and criminal proceeding in which a judgment has been given for the payment of a sum of money recoverable by distress;

"process" includes writ of interim attachment, warrant to arrest an absconding defendant, warrant to arrest a ship, and judgment summons;

"registrar" includes registrar of the High Court and registrar of a magistrate's court.

Part II Rules

Order I Duties of the Sheriff and Bailiffs

1. (1) The sheriff may from time to time as he thinks fit appoint such number of persons for keeping possession, and such number of sworn appraisers for the purpose of valuing any property attached under process of a court, as appears to him to be necessary.
- (2) The sheriff may direct security to be taken from any appraiser or other person so appointed for such sum and in such manner as he thinks fit for the faithful performance of his duties without unjury or oppression.
- (3) The sheriff may dismiss any appraiser or other person so appointed.

2. Unless application is made to the court for the services of a licensed auctioneer, sales of property by auction shall be conducted by a bailiff under the supervision of a deputy sheriff.
3. In the exercise of his powers under section 5 of the Act, the sheriff may appoint any person to be a paid bailiff or an unpaid bailiff.
4.
 - (1) A paid bailiff shall receive such salary as may be approved by the President in respect of the Federal Capital Territory, Abuja and by the Governor in respect of each State of the Federation.
 - (2) For the service of any document, for personal arrest, for the execution of a writ against property, and for the man in possession an unpaid bailiff shall be entitled to be paid the fees prescribed for such services and also any fee paid for mileage in respect of the service rendered by him.
 - (3) The fees payable to a bailiff as certified by a registrar on Form 28 shall be paid to the bailiff on a voucher classified against the appropriate expenditure item and not otherwise.
 - (4) Except as aforesaid, a bailiff shall not receive or demand any fee, reward, mileage money, subsistence or other allowance for any service rendered by him as a bailiff.
 - (5) Where any service mentioned in paragraph (2) of this rule is rendered by a paid bailiff, the fee in respect of such service shall be paid into the Consolidated Revenue Fund.
5.
 - (1) Every bailiff shall be furnished with two receipt books, one to be used in each alternate month. Every such receipt book shall be in the form of Treasury Receipt Book No. 6A.
 - (2) Whenever any bailiff shall receive any money by virtue of his office, he shall prepare a receipt in triplicate in such receipt book entering thereon-
 - (a) the name and the date of the process;
 - (b) the title of the proceedings in respect of which the money is received;
and
 - (c) the amount for which the receipt is given.
 - (3) The original of such receipt shall be delivered to the person making the payment, the duplicate shall be attached to the voucher supporting payment into the Treasury and the triplicate shall remain in the receipt book.

6. Every bailiff shall pay to the deputy sheriff as soon as possible and not less frequently than twice in each week and on the last working day of each calendar month all monies for the time being remaining in his hands:

Provided that whenever the amount in hand in respect of such moneys shall exceed the sum of fifty naira, such amount shall be paid to the deputy sheriff at the close of the day.

7. At the close of every month each bailiff shall make-

- (a) a full return to the deputy sheriff in Form 30 of all writs, orders, and warrants which remained in his hands not fully executed at the end of the preceding month, and of all such writs, orders, and warrants as have been entrusted to him for execution during the past month, and shall set against each such process a statement of what has been done thereunder, and

- (b) a return in Form 31 of all moneys received by him during the month.

8. (1) The deputy sheriff shall thereupon examine the said returns and see that the return (Form 30) includes all process as aforesaid, and that all sums of money appearing in the return (Form 31) have been duly paid to him.

- (2) He shall also examine the counterfoils of the receipt book used by the bailiff during the past month and see that there is an entry on a counterfoil to denote that a receipt from the said book has been given for each sum acknowledged to have been received and that all sums for which receipts appear from the counterfoils to have been given have been duly entered and accounted for in the second return as aforesaid.

- (3) At the end of the examination of each return the deputy sheriff shall certify that he has examined such return in accordance with the law, and shall forward it to the Sheriff.

9. All writs, orders, and warrants are to be delivered or sent by the proper officer of court to a deputy sheriff, and not to a bailiff in the first instance:

Provided that writs of execution issued at the instance of the Commissioner of Income Tax may be delivered or sent to the Commissioner of Income Tax, and that writs of execution issued at the instance of the Secretary of a Local Government Council, may be delivered or sent to such Secretary, and the writs of execution issued at the instance of the Director of Federal Public Works may be delivered or sent to the Director of Federal Public Works.

10. The receipt to be given by the sheriff under section 10 of the Act shall be in Form 32.

11. Every deputy sheriff shall keep a sheriff's register of process in Form 33 and also a cash book in which he shall record all receipts and payments of monies in connection with the execution of process.
12. If any process sent to the sheriff for execution or service has not been executed or served, as the case may be, within one month from the date of receipt, the sheriff shall at the end of the first and every subsequent month during which the process remains unexecuted notify the judgment creditor and the registrar of the court from which the process was received, and also, if the process was issued from another court, the registrar of that court.
13. The deputy sheriff, as soon as possible, return the process with an account showing the amount realised, the amount due for sheriffs, bailiffs and appraiser's fees and expenses, and the balance; and shall pay the balance into court. In case of a sale of property he shall also deliver a duly certified sale account.
14. The balance shall be payable to the judgment creditor or other person entitled thereto, who shall give a receipt therefor.
15. No money realised by any process is ever to be paid by the sheriff or a bailiff to the judgment creditor or to his lawyer or agent.
16. Any bailiff who fails to comply with any of the provisions of these regulations shall be guilty of an offence and liable to a fine of one hundred naira or to imprisonment for three months or to both such fine and imprisonment.
17. Where a complaint is made against a bailiff under section 40 of the Act, the registrar shall issue a summons in Form 34 which shall be served on the bailiff in accordance with the rules for service of ordinary summonses not less than ten clear days before the return day.

Order II
General

1. Subject to any provision to the contrary, where anything is required by these Rules to be done before or by a court, the same shall be done before a judge or magistrate as the case may require sitting as a court; and where anything is required to be done before or by a judge or magistrate, the same may be done before or by a judge or magistrate, as the case may require, either sitting as a court or in chambers.
2. Subject to the provisions of any Act or Law as the case may be, fixing the times and places for sittings of the court, and to the provisions of any Act fixing the time for doing any act, a judge or magistrate, in his discretion-

(a) where the time for doing any act is prescribed by these Rules or fixed by any judgment, may, as often as he thinks fit, and either before or after the expiration of that time, enlarge or abridge that time; and

(b) where the time for doing any act is not prescribed by these Rules, may fix that time, and the time so fixed shall be deemed to be the time prescribed by these Rules, and may be enlarged or abridged accordingly.

3. The parties may not by consent enlarge or abridge any of the times prescribed by these Rules for doing any act.

4. Execution shall not be effected on a Sunday or public holiday, nor before 6 a.m. nor after 6 p.m., unless the judge or magistrate directs otherwise by order endorsed on the process to be executed.

5. Where any money paid into a court under an Act or rule is or becomes payable to any party, officer, or person, the registrar shall inform such party, officer or person and pay the money out of court to him, subject to the approval of the judge or magistrate:

Provided that money payable to a party or to any person not in an official capacity shall not be paid out before demand made by such party or person.

6. Where-

(a) a judgment creditor pays any sum of money for the subsistence of a judgment debtor or for the expenses of his conveyance to prison, and the judgment debtor is liberated after having been imprisoned for a shorter period than that in respect of which the subsistence money was paid, or before being imprisoned, or the order or warrant is superseded or stayed before imprisonment; or

(b) a judgment creditor pays any sum of money in respect of fees for keeping possession of attached property, and the execution is superseded or finally stayed, or the property is sold, before such sum, or some part of it, has become due and payable to the sheriff;

then such sum or the balance thereof shall be payable to the judgment creditor by or through the court into which the sum was first paid by him.

7. (1) An officer or bailiff who is required by the Act or these Rules to pay money to any person shall either-

- (a) hand, or cause to be handed, to the person to whom the money is required to be paid, or to his agent, the amount of the money in cash; or
 - (b) pay the money into the Treasury and send the Treasury deposit receipt to the person to whom the money is to be paid.
- (2) A person other than an officer or bailiff who is required by the Act or these Rules to pay money to any officer or bailiff may pay the money into the Treasury and send the Treasury deposit receipt to the officer or bailiff to whom the money is to be paid.
8. Subject to any provision to the contrary-
- (a) where any certificate or notice is required to be given, sent, or delivered under the Act or these Rules, it shall be in writing and subject to paragraph (e) of this rule, in the prescribed form, if any;
 - (b) where any notification is required under these Rules it shall be in writing;
 - (c) where any information is required to be given under these Rules, it may be given in writing or by word of mouth;
 - (d) where any written information or other document is required to be given, sent, or delivered, it may, subject to paragraph (e) of this rule, be sent by hand or by post, whichever is the more expeditious; and if posted by an officer it shall be registered;
 - (e) where circumstances so require, a brief note of the issue or dispatch, and the contents and effect of any certificate, notice, notification, or written information may be sent by telegram, and such telegram, and the dispatch thereof, shall, until receipt of such certificate, notice, notification, or written information, have the same validity and effect as the original certificate, notice, notification, or written information and the posting thereof;
 - (f) any such telegram sent by an officer shall be franked by him, but the judge or magistrate may, if he sees fit, direct the expenses of sending it to be paid to the court by any party, and any expenses so paid or ordered to be paid shall be costs in the proceedings.
9. (1) The original or a true copy of every process and every other document shall be filed in the appropriate suit file.
- (2) No document shall be filed unless it has entered or endorsed on it the name and number of the proceeding, the date of filing, and whether filed by

the judgment creditor or the judgment debtor, or as the case may be; and on being filed such entry or endorsement shall be initialed by the registrar.

10. Subject to any provision to the contrary, any application by a party for an order or direction of a court in relation to any judgment, execution, or, process shall be made in the same manner as an application for an interlocutory order in that court.
11. Where by or under the Act or these Rules any person is required or authorised to give security, the security shall be given in the same manner and subject to the same conditions as security in relation to other proceedings in the court before which the security is taken.
12. Without prejudice to any other means of enforcement authorised by the Act or these Rules, an interlocutory order may be enforced according to the following provisions-
 - (a) if a plaintiff in a suit makes default or fails in fulfilling any interlocutory order, the court may, if it thinks fit, stay further proceedings in the suit until the order is fulfilled, or may give a judgment or non-suit against such plaintiff, with or without liberty of bringing any other suit on the same grounds of action, or may make such other order on such terms as to the court shall seem just;
 - (b) if a defendant in any suit makes such default or failure the court may give judgment by default against such defendant, or make such other order as to the court may seem just; but any such judgment by default may be set aside by the court upon such terms as to the costs or otherwise as the court may think fit.
13. If there be cross judgments between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the judgment for the larger sum as well as satisfaction on the judgment for the smaller sum. , and if both sums shall be equal satisfaction shall be entered upon both judgment.
14. Whenever any proceeding shall be pending in the court against the holder of a previous judgment of the court by the persons against whom the judgment was given, the court may, if it appear just and reasonable to do so, stay execution of the judgment either absolutely or on such terms as it may think just until a judgment shall be given in the pending proceeding.
15. Where the judgment is to the effect that any party is entitled to any relief, subject to or upon the fulfilment of any condition or contingency, the party so

entitled may, upon the fulfilment of the condition or contingency, and demand made upon the party against whom he is entitled to relief, apply to the court for leave to issue execution; and the court may, if satisfied that the right to relief has arisen according to the terms of the judgment, order that execution issue accordingly, or may direct that any issue or question necessary for the determination of the rights of the parties be tried as in a suit.

16. Where a person not being a party in a proceeding obtains an order or has an order made in his favour, he shall be entitled to enforce obedience to such order by the same process as if he were a party in the proceeding; and any person not being a party in a proceeding against whom obedience to any judgment may be enforced, shall be liable to the same process for enforcing obedience to such judgment as if he were a party to the proceeding.
17. If any person against whom a judgment has been given shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative or the estate of the person so dying as aforesaid; and if the court shall think proper to grant such application the judgment may be executed accordingly.
18. If the judgment is ordered to be executed against the legal representative, it shall be executed in the manner provided by the next succeeding rule of this Order for the execution of a judgment for money to be paid out of the property of a deceased person.
19. If the judgment be against a party as the representative of a deceased person, and such judgment be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property; or, if no such property can be found, and the judgment debtor fail to satisfy the court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the judgment may be executed against the judgment debtor to the extent of the property not duly applied by him, in the same manner as if the judgment had been against the judgment debtor personally.
20. Whenever a person has become liable as security for the performance of a judgment or of any part thereof, the judgment may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a judgment may be enforced against a judgment debtor.
21. (1) Where a judgment is against a firm, execution may issue as follows- (a) against any property of the partnership;
(b) against any person who has admitted in the proceeding that he was a partner when the cause of action arose, or who has been adjudged to be liable as a partner;

- (c) against any person who was individually served with the summons as a partner or a person sought to be made liable-
 - (i) if there was a trial and the person so served failed to appear at the trial, or
 - (ii) if the proceeding was an action on the undefended list in the Supreme Court or in the High Court or a default action in a magistrate's court, and judgment was entered in default of defence.
 - (2) If the judgment creditor claims to be entitled to issue execution against any other person as a partner, he may apply to the court on notice to the alleged partner for leave so to do and the following provisions shall apply-
 - (a) the notice shall be served on the alleged partner personally;
 - (b) on the hearing of the application the court may, if liability is not disputed, give leave to issue execution and, if liability is disputed, may order the issue of liability to be tried in such manner as the court thinks fit and may give all necessary directions for that purpose.
 - (3) Except as against property of the partnership, a judgment against the firm shall not render liable, release, or otherwise affect any partner who was out of Nigeria when the summons was issued, unless he has been individually served with the summons.
22. Every process may lawfully be carried into effect in any place within Nigeria where the defendant or judgment debtor or his movable or immovable property may be found or met with:
- Provided that should any person not a party to the proceeding claim an interest in any attached property, real or personal, the sale thereof shall not proceed until the claim has been decided by a court being in the area where such property is situated and having jurisdiction to adjudicate upon such claim.
23. A court may, if it appears likely that process cannot be carried into effect without causing political or other trouble, address the same to the Governor of the State, or the Chairman of the Local Government Council, where it is to be executed with a request that it shall be carried into effect, and such Governor or Chairman shall thereupon cause the same to be carried into effect.
24. Except for the purposes of sections 44 and 55 of the Act and rule 13 of Order IV, process, other than a warrant issued from the High Court to arrest an absconding defendant, and a writ of interim attachment, shall issue from the court before which the proceeding is pending or which gave the judgment sought to be enforced, as the case may be, and from no other court.

25. Except for the purposes of section 44 of the Act and rule 13 of Order IV, no proceeding in a magistrate's court shall be transferred, for the purpose of enforcing any judgment therein, to the High Court.
26. (1) Process, other than a warrant issued from a magistrate's court to arrest an absconding defendant, and a judgment summons, shall be executed by or through the court for the division or district where the person or property sought to be affected is or is situate and by no other court.
- (2) Where a process other than a judgment summons or a warrant issued in a magistrate's court to arrest an absconding defendant is required to be executed outside the division or district of the court from which it is issued, sections 37 and 39 of the Act and rule 28 of this Order shall apply:
- Provided that no such process issued from a magistrate's court for the enforcement of a judgment given in that court shall be sent for execution to the High Court.
27. (1) Where, subject to the provisions of rule 25 of this Order a judgment creditor desires to issue a judgment summons in a court judgment other than that in which the judgment was given, or the judgment was given in a magistrate's court and the judgment creditor desires to issue in the High Court any process affecting the immovable property of the judgment debtor which may not lawfully issue out of a magistrate's court, the judgment creditor may apply to the court in which the judgment was given for the transfer of the proceedings subsequent to judgment to a court having jurisdiction to issue the judgment summons or process against immovable property.
- (2) The application may be made in like manner and form as an application by a party to a cause or matter for a transfer thereof before judgment.
- (3) Upon such application, all or any of the proceedings subsequent to judgment may be transferred to the court to which transfer is requested, in the manner, and upon the same conditions upon which, and with the same effect with which, the cause or matter in which the judgment was given might have been transferred to that court before judgment.
- (4) When the proceedings have been transferred to the other court, payments under the judgment shall be made into that court, and, subject to sections 44 and 55 of the Act, any judgment summons or other process for enforcing the judgment shall be issued by that court.
- (5) If the judgment creditor subsequently desires to issue a judgment summons, or any process affecting the immovable property of the judgment

debtor, in another court, he may make an application to the court to which the proceedings have been transferred and the provisions of paragraphs (1) to (5) of this rule shall apply with the necessary modifications.

- (6) Process and documents in transferred proceedings shall be commenced according to Form 35.
28. (1) Every process sent to a foreign court for execution shall be accompanied by a warrant in Form 11 in accordance with sections 37 or 39 of the Act.
- (2) The registrar of the home court shall pay to the registrar of the foreign court any subsistence money paid in respect of a warrant or order of commitment or warrant of arrest and detention sent to a foreign court, and subsequent payments of subsistence money shall be paid by the judgment creditor to the registrar of the foreign court.
 - (3) Where, under any process sent to a foreign court, money is received by the registrar of that court, he shall, unless interpleader proceedings are pending, pay the money to the home court accompanied by a return in Form 12.
 - (4) Where interpleader proceedings are pending, the registrar shall postpone making the return under paragraph (3) of this rule until the interpleader proceedings are determined, and shall then make the return showing how the money is to be disposed of and pay to the home court money (if any) payable to the judgment creditor.
 - (5) All applications in relation to the process or execution shall be made to and adjudicated upon by the foreign court.
29. (1) In every case of execution all steps therein shall be taken on the demand of the party prosecuting the judgment who shall be required to provide means of identification of the party against whom process is issued; and the party prosecuting the judgment responsible for providing all service, execution, and mileage fees which may be due and execution shall not be proceeded with until such fees are made available.
- (2) The party prosecuting the judgment shall be liable for any damage arising from any illegal or irregular proceeding taken at his instance, but this provision shall not exempt any officer or bailiff from any liability to which he would otherwise be liable.
 - (3) In every case where an execution is withdrawn, satisfied, or stopped, any fee that may have been properly incurred by an officer or bailiff during execution shall be paid by the person at whose instance the process was

issued or the execution is withdrawn, satisfied, or stopped, as the case may be.

30. When any process other than an order or warrant for imprisonment which has been delivered to the officer in charge of a prison has been executed, satisfied, superseded, withdrawn, recalled, stayed, or suspended, the registrar shall file and retain it.
31. Except as otherwise prescribed by the Act or these Rules, the costs, fees and expenses of and incidental to the issue and the execution, if any, of process, whether executed or unexecuted or unproductive, shall be allowed against the judgment debtor, unless the judge or magistrate otherwise directs.
32. The judgment creditor may levy the costs of execution over and above the sum in the judgment unless the court shall otherwise order in cases where costs shall have been needlessly incurred, and may also levy any interest on the judgment which the court may have ordered.
33. Where no sworn appraiser is available, any appraisal may be made by some person nominated in that behalf by the judge or magistrate, and if such person is a public officer, the appraisal fee shall be paid into the Consolidated Revenue Fund.

Order III Stay of Judgments and Process

1. An application under section 23 of the Act if not made at the trial, shall be made by motion on notice to the judgment creditor.
2. (1) An order to suspend or stay any judgment or process, or an order for the discharge or liberation of a debtor, shall be in Form 36.

(2) Where an order suspending or staying a judgment or any process has been made and process has issued, the process shall be recalled, but the court or magistrate may order the debtor to pay the costs of the process and any fees or expenses incurred before the recall of the process, and may authorise the sheriff to sell a portion of the property attached (if any) sufficient to realise such costs, fees, and expenses and the expenses of the sale, and any such process may be reissued by leave of the court or magistrate.
3. Where any execution is superseded under section 22 of the Act, or stayed under section 23 of the Act or otherwise, then, if the judgment creditor shall desire it, and shall deposit in court a sum sufficient to cover the expense, notice of supersession or stay shall be given in the same manner as in Order V prescribed

respecting the notice of attachment and the delivery of office copies of the order of attachment; and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Order IV
Issue of Process

1. (1) No writ of possession shall be issued until after the expiration of the day on which the defendant is ordered to give possession of the land, or, if no day has been fixed by the court for giving possession, until after the expiration of fourteen days from the day on which judgment is given.
- (2) No other process shall, except by express leave of the court, be issued until after the expiration of three days from the day on which judgment is given.
2. Execution may issue on behalf of any person not a party to the suit, by leave of the court, upon proof of his title to the benefit of the judgment, and upon substitution of the name of the new judgment creditor, together with a statement of his derivative title, for that of the former judgment creditor.
3. An application for the issue of any process which may issue without application to the court or a Judge or magistrate shall be made to the registrar in the first instance, and an application for the issue of any other process shall be made to the registrar after the order for its issue shall have been obtained.
4. An application to the registrar for the issue of any process in respect of which no praecipe is required or prescribed shall be made by filing a written request for the issue of the process specifying the number and title of the suit, the date of the judgment, the nature of the process, and the name of the party against whom, and the amount, if any, for which it is to be executed.
5. Upon the application of the judgment creditor, the registrar shall, subject to the provisions of these Rules, issue the proper process for the execution of the judgment.
6. The registrar may, at any time, take the direction of the court as to any application for the issue of process and in the meanwhile refuse to issue the process.
7. The precise time of the making of an application to the registrar for the issue of any writ of execution shall be entered by him in a book in Form 37 and on the writ, and when more than one writ is issued they shall be executed in the order of the times so entered.

8. (1) As between the original parties, process, otherwise than against the person, may issue at any time within six years, and against the person at any time within two years, from the date of the judgment which is immediately sought to be enforced.
- (2) After such periods respectively process shall not issue without leave of the court, but no notice to the judgment debtor before applying for such leave shall be necessary.
- (3) Where leave is given, a note thereof shall be made on the process.
9. (1) In the following cases, namely-
 - (a) where any change has taken place by death or otherwise in the parties entitled or liable to execution;
 - (b) where a husband is entitled or liable to execution upon a judgment for or against his wife;
 - (c) where a party is entitled to execution upon a judgment of assets in futuro;
 - (d) where a party is entitled to execution against any of the shareholders of a joint stock company upon a judgment recorded against such company or against a public officer or person representing such company, the party alleging himself to be entitled to execution may apply to the court for leave to issue process accordingly. The court may, if satisfied that the party so applying is entitled to execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties shall be tried in any of the ways in which any question in any action may be tried. And in either case the court may impose such terms as to costs and otherwise as shall be just.
- (2) Where leave is given, a note thereof shall be made on the process.
10. Any process, if unexecuted, shall remain in force for one year only from its issue.
11. Process may be issued concurrently for execution in one or more divisions or districts, but the costs of more than one process and execution shall not be allowed against the judgment debtor except by order of the court.
12. Where a judgment summons is pending or an order or warrant of commitment is outstanding in respect of money payable under a judgment, no writ of

execution shall issue in respect of the money so payable except by leave of the court.

13. A writ of sequestration, and a writ of interim attachment directed against any immovable property of a defendant or judgment debtor, shall not issue out of a magistrate's court, but such writs may issue out of the High Court upon the transfer thereto of the proceedings.
14. No praecipe shall be required upon the issue of a writ of interim attachment.
15. When a judgment creditor desires a writ of attachment and sale against the movable property of the judgment debtor to be issued, he shall file a praecipe in Form 3.
16. (1) When a judgment creditor desires a writ of attachment and sale to be issued against the immovable property of the judgment debtor he shall apply to the High Court.
 - (2) The application shall be supported by evidence showing-
 - (a) what steps, if any, have already been taken to enforce the judgment, and with what effect; and
 - (b) what sum now remains due under the judgment; and
 - (c) that no movable property of the judgment debtor, or none sufficient to satisfy the judgment debt, can with reasonable diligence be found.
 - (3) If upon the hearing of the application it appears to the court that the writ of attachment and sale may lawfully issue against the immovable property, the court shall make an order accordingly.
 - (4) A writ of the attachment and sale against immovable property shall be in Form 38.
17. When the name or address of any person, as given in any praecipe or other application for the issue of any process, differs from the name or address in the plaint note, summons, or judgment, and the applicant satisfies the registrar or the court or the Judge or magistrate, according as the application is made to the registrar or the court or the Judge or magistrate, that the amended name or address is applicable to the person against whom the judgment was obtained, both names and addresses shall be inserted on the process as follows: -

C. D. of (name and address as given in the praecipe or application) sued (or suing) as A.D. of (name and address in the plaint note, summons or judgment)

18. (1) After the issue of a writ of execution but before sale thereunder the judgment debtor, or anyone on his behalf, may pay to the bailiff holding the writ, or to the court which issued the writ, or to the foreign court, if any, the amount to be levied under the writ and the costs, if any, subsequent to the issue of the writ, or part of such amount and costs.
- (2) Where any such payment or part payment is made, the following provisions shall apply-
- (a) where the money is paid to the court of the division or district in which the writ is to be executed, the registrar shall notify the bailiff holding the writ of the payment;
 - (b) where the money is paid to the home court after the writ has been sent to a foreign court, the registrar of the home court shall send a notice of the payment in Form 39 to the registrar of the foreign court, who shall notify the bailiff holding the writ of the payment;
 - (c) where the money is paid or paid over to the foreign court, the registrar of that court shall follow the procedure prescribed in paragraphs (3) and (4) of rule 28 of Order II;
 - (d) where payment is made or notified to the bailiff holding the writ, he shall deduct the amount of the payment from the total amount to be levied, and execute the writ for the balance only, if any.

Order V Attachment

1. The sheriff or any bailiff executing any writ for the attachment and sale of any property of a judgment debtor-
- (a) where the writ is for the distress or attachment and sale of goods, may by virtue thereof attach and sell-
 - (i) any movable property to which the judgment debtor is entitled, but which is not in his possession or is subject to a lien or right of some other person to the immediate possession thereof, and
 - (ii) any shares in any public company or corporation to which the judgment debtor is entitled; and

- (b) where the writ is for the attachment and sale of immovable property may by virtue thereof attach and sell any of the immovable property of the judgment debtor.
2. The attachment of any movable property mentioned in paragraph (a) of the preceding rule shall be effected under an order of court prohibiting-
 - (a) the person in possession of, or entitled to a lien or right of immediate possession over, the property from giving over the property to the judgment debtor, or
 - (b) the person in whose name the shares may be standing from making any transfer, or receiving payment of any dividends thereof, and the manager, secretary, or other proper officer of the corporation from permitting any such payment, until further order of the court,

by delivering an office copy of the order to any person bound by it.
3. The attachment of immovable property shall be effected by the delivery of the notice of attachment in Form 41 mentioned in the next succeeding rule, and, unless the court shall otherwise order, by posting in a conspicuous place on the land a notice in Form 40 prohibiting all persons from receiving the same by purchase, gift, or otherwise; and the sheriff may also take and retain actual possession of the land, by putting into possession thereof some fit person approved by the sheriff.
4. The person proceeding to attach any property shall deliver to the judgment debtor or leave at the place where the attachment is effected a notice of attachment in Form 41.
5. Property in the custody or under the control of any public officer in his official capacity shall be liable to attachment in execution of a judgment with the consent of the Attorney-General, and property in custodia legis shall be liable also to attachment by leave of the court. In such cases the order or notice of attachment must be delivered to such public officer, or to the registrar, as the case may be.
6.
 - (1) When property is attached the sheriff shall notify the judgment debtor of the time when and the place where the property will be sold, at least twenty-four hours before the time of the sale.
 - (2) When movable property attached is removed, the sheriff shall give to the judgment debtor a sufficient inventory thereof, immediately after the removal.

- (3) The notification and inventory shall be given to the judgment debtor personally, or sent to him by post to his place of residence, or if his place of residence is not known may be left at or sent by post addressed to him at the place where the property was attached.
7. After an attachment shall have been made by actual seizure, or by order or notice as aforesaid, and, in the case of an attachment by order or notice, after it shall have been duly intimated and made known in manner aforesaid, any alienation without leave of the court of the property attached, whether by sale, gift or otherwise, and any payment of the dividends or shares to the judgment debtor during the continuance of the attachment, shall be null and void, and the person making such alienation or payment shall be deemed to have committed a contempt of court.
8.
 - (1) Where upon the attachment of any property under a writ of execution the judgment debtor disputes the amount alleged to be remaining due under the judgment, he may, without prejudice any other remedy he may have, apply to the court for a stay of execution and an inquiry as to what amount, if any, remains due under the judgment.
 - (2) The court upon such application may make an order for staying the execution upon such terms, including terms as to security to be given by the judgment debtor, as it thinks fit; and may order an inquiry, on notice to the judgment creditor, as to what amount, if any, remains due under the judgment, and shall conduct the inquiry in like manner and with the same powers as if it were an inquiry under rule 10 of Order IX upon the hearing of a judgment summons.
9. When the property attached shall consist of immovable property, it shall be competent to the court to appoint a manager or managers of the said property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts towards the payment of the amount to be levied and subsequent costs; or, when the property attached shall consist of land, if the judgment debtor can satisfy the court that there is reasonable grounds to believe that the amount of the judgment may be raised by the mortgage of his interest therein, or by letting on lease, or by disposing by private sale of a portion of such interest, or of any other property belonging to the judgment debtor, it shall be competent to the court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper, to enable the judgment debtor to raise the amount. In any case in which a manager shall be appointed under this order, such manager shall be bound to render due and proper accounts of his receipts and disbursements, from time to time, as the court may direct.
10.
 - (1) If the judgment debtor shall be absent from the jurisdiction, and it shall appear to the satisfaction of the court that the public sale of any of his

immovable property which has been attached is objectionable, and that satisfaction of the judgment may be made within a reasonable period by a temporary alienation of such property, the court may of its own motion, instead of proceeding to a public sale of such property, order that provision be made for the satisfaction of the judgment by mortgage thereof, and may authorise the registrar, if necessary, to execute the mortgage deed in lieu of the judgment debtor or any other necessary parties and may make such orders in relation to such mortgage as may be requisite to carry out this provision; and the execution of such mortgage deed by the registrar in the form prescribed in rule 13 of Order VII shall have the same effect as the execution thereof by the judgment debtor or other necessary parties.

- (2) That the court may be able to act under this rule the sheriff shall forthwith on the attachment of any immovable property of a judgment debtor absent from the jurisdiction give notice of the same to the court.

Order VI Interpleader Summons

1. Any claim or in respect of attached property shall be made to the bailiff holding the writ or to the sheriff.
2. (1) The sheriff shall give information of the claim to the registrar of the court for the division or district in which the property is situate.
(2) On receipt of the information the registrar shall send notice of the claim to the judgment creditor or plaintiff in Form 42 and a notice to the claimant in Form 43.
3. If the judgment creditor or plaintiff admits the claim or requests the sheriff to withdraw from possession, the sheriff shall withdraw from possession.
4. (1) If the judgment creditor or plaintiff does not admit the claim, the sheriff shall, unless the claimant has withdrawn his claim, apply for the issue of a summons in accordance with the provisions of section 34 of the Act.
(2) Upon such application, the registrar shall enter interpleader proceedings in the books of the court, and fix a day for the hearing and prepare and issue interpleader summonses to the judgment creditor or plaintiff and the claimant in such of the Forms in the First Schedule to the Act as are applicable to the case, and make all necessary copies thereof.

5. (1) The summonses shall be served in accordance with the rules for service of an ordinary summons issued from the court from which the summonses are issued.
 - (2) The interval between service and the hearing shall be such number of clear days not less than fourteen as the registrar may direct, having regard to the distance from the court of the place where any person to be served resides.
 - (3) Where the summons is sent for service to a foreign court, the registrar of the foreign court shall, according as the summons is or is not served, send the copy of the summons, or a notification that it has not been served, to the registrar of the home court so that it is received not less than two clear days before the return day.
6. (1) The claimant shall, within such reasonable time before the return day as the time of service permits, file in the court registry three copies of the particulars of the property he claims and the grounds of his claim, or, in the case of a claim for rent, particulars stating the amount thereof, and the period and the premises in respect of which the rent is claimed to be due.
 - (2) The claimant shall include in his particulars a statement of his full name, address, and occupation.
 - (3) The registrar shall send copies of the particulars to the sheriff and the judgment creditor:

Provided that the court may, if it thinks fit, hear the proceedings although particulars have not been filed.
7. Where before the return day-
 - (a) the claimant informs the registrar that he withdraws his claim; or
 - (b) the judgment creditor or plaintiff informs the registrar that he admits the claimant's title,

the registrar shall notify the judgment creditor or plaintiff of the withdrawal, or the claimant of the admission, as the case may be, and the property attached or the proceeds of sale or the money paid into court shall be dealt with as if the claim had not been made or as if the attachment had been withdrawn, and the Judge or magistrate may make such order as to costs as may be just.
8. The Judge or magistrate may require the claimant to give security for costs as if such claimant were the plaintiff to a suit.

9. Where the summons relate to any immovable property and the parties whereto other than the sheriff are all parties ordinarily subject to the jurisdiction of a customary or area court the court shall on the return day of the summons adjourn the hearing and stay execution for one month to enable the claimant to institute proceedings in the competent customary or area court to establish as against the judgment creditor or plaintiff and judgment debtor or defendant the right, title or interest on which his claim to have the property released from attachment is based.
10. If the claimant fails to institute the required proceedings in the competent customary or area court within the said period of one month the court may forthwith dismiss the claim or may on special cause shown extend the period within which the claimant may institute the said proceedings and grant a further adjournment and stay of execution. If within the said period of one month or within any extension thereof which may have been allowed the claimant has instituted the required proceedings the court shall adjourn the hearing of the summons until such time as final judgment is given in the customary or area court or in any appeal which may be actually pending in regard to the proceedings instituted by the claimant in the competent customary or area court. At such adjourned hearing the court shall give judgment on the summons in accordance with such final judgment.
11. Where in the interpleader proceedings the claimant claims damages from the judgment creditor or plaintiff or from the sheriff in respect of the attachment, he shall, in the particulars of his claim to the property, state the amount he claims for damages, and the grounds on which he claims damages.
12. Where in the interpleader proceedings the judgment creditor or plaintiff claims damages from the sheriff arising out of the attachment, he shall, within such reasonable time before the return day as the time for service permits, file particulars of his claim, stating the grounds and amount thereof, and give a copy of the particulars to the registrar who shall deliver it to the sheriff.
13. Where in the interpleader proceedings a claim for damages is made, the person from whom damages are claimed may pay money into the court in satisfaction of that claim, and the payment shall be made in the same manner and have the same effect as if the proceedings were an action in that court and the person claiming damages were plaintiff and the person from whom damages are claimed were defendant.
14. Where property has been attached and any claimant alleges that he is entitled to it under a mortgage or bill of sale or otherwise by way of security for a debt, the court may order the property or any part thereof to be sold, and may direct the proceeds of sale to be applied in such manner as may be just.

15. (1) The order made upon the hearing of interpleader proceedings shall contain directions by whom any court fees shall be paid and how any money in court shall be applied.
- (2) The court may, notwithstanding any appraisalment, assess the value of the property for the purpose of any calculation of court fees or costs which depends on such value.

Order VII
Sale

1. Where the judgment debtor shall have been arrested and is detained in custody, no sale of any portion of his property attached in execution shall be made until one month shall have elapsed after his being so arrested, and at least fifteen days' notice shall have been given to the judgment debtor, specifying the property so taken and intended to be sold:

Provided that the sale may take place at any time in the case of perishable articles or where the judgment debtor has given his consent thereto in writing.
2. Subject to the provisions of any Art or rule, the sale of any property under a writ of execution shall be conducted according to such orders as the court may make on the application of any person concerned.
3. (1) Before filing any application for leave to effect the sale under a writ of execution of any property otherwise than by public auction, the registrar shall deliver to the applicant on demand a list containing the name and address of every person at whose instance any writ of execution against the debtor has been issued, of which the registrar has notice.

(2) Notice of the application in Form 44 shall be served on every person named on the list and on the sheriff.

(3) On the hearing of the application the applicant shall produce the list to the court.

(4) A copy of any order made on the application shall be sent to the sheriff.
4. Where any advertisement of sale of any property is required to be made, it may, subject to the directions, if any, of the court, be made in a newspaper published in Nigeria, or by means of posters or placards, or otherwise as the sheriff shall think fit having regard to the value of the property and the other circumstances of the case.

5. Where property is sold under a writ of execution the proceeds shall be disposed of as follows-

- (a) where the property is sold by the sheriff, he shall follow the procedure prescribed in rule 13 of Order I;
- (b) where the property is sold by an auctioneer, he shall pay the gross proceeds into court;
- (c) the money so paid into court shall be payable as follows-
 - (i) any amount then due and unpaid for sheriffs, bailiffs, and appraiser's fees and expenses: to the sheriff, and next,
 - (ii) the prescribed fees and expenses of sale: to the auctioneer, if any, and next,
 - (iii) the amount to be levied, together with costs paid by the judgment creditor subsequent to the issue of the writ, if any: to the judgment creditor, directly or through the registrar of the home court, if any, and next,
 - (iv) the balance: to the judgment debtor.

6. (1) No immovable property attached shall be sold for the purpose of satisfying the writ of execution until the expiration of at least fifteen days next following the day on which the property has been attached unless the person whose property has been attached so requests in writing:

Provided that the sheriff may, if he is unable from want of time to complete the sale, adjourn the same for a period of not more than three days, and so on as often as may be necessary:

And provided further that the court may, if it thinks fit, direct that the sale shall be postponed for any time not exceeding twenty-eight days after the attachment.

- (2) The sale shall be made in the principal court house of the division in which the property is situated, or on the land attached, or at such other place as may be appointed by the sheriff or, in case of dispute, by the Judge on the application of any person concerned.
- (3) Notice of the day and hour of sale of any immovable property attached shall be published fourteen days at least before the day of such sale by being posted-

- (a) upon the door of the principal court house of the division in which the property is situated; and
 - (b) also in a conspicuous place upon the land attached; and
 - (c) if the sale is to take place elsewhere than at such court house or on the land attached, then at such other place also; and
 - (d) if the court so directs, in a newspaper published in Nigeria.
- (4) Where any immovable property is to be sold under a writ of execution for a sum exceeding forty naira, including legal incidental expenses, the sale shall be publicly advertised by the sheriff on, and during three days next preceding, the day of sale.
- (5) Every sale shall take place between the hours of seven o'clock in the morning and eight o'clock in the evening.
7. (1) The sale under a writ of execution of any immovable property shall be made by public auction, at which the property shall be knocked down to the highest bidder for ready money, and not by private contract, unless the court otherwise orders.
- (2) Where any immovable property is attached and the registrar has notice of another attachment or other attachments, the court shall not consider an application for leave to sell privately until notice in Form 44 has been given to the other judgment creditor or creditors, who may appear before the court and be heard on the application.
8. The notice required to be given under section 36 of the Act shall be in Form 45.
9. The certificate under section 50 of the Act shall be in Form 46.
10. Where the property sold shall consist of immovable property in the occupancy of persons entitled to occupy the same, the court shall, on the application of the purchaser, order delivery thereof to be made by affixing a copy of the certificate of title in some conspicuous place on the land, or in the principal court building of the division.
11. Where the property sold shall consist of shares in any public company or corporation, the court shall, on the application of the purchaser, make an order prohibiting the person in whose name the shares may be standing from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the manager, secretary, or other proper

officer of the company or corporation from permitting any such transfer or making any such payment to any person except the purchaser.

12. Where the property sold shall consist of negotiable securities, of which actual seizure has been made, the same shall be delivered to the purchaser thereof.
13. If the endorsement, transfer, or conveyance of the party in whose name any negotiable security, or any share in a public company or corporation, is standing, or in whom any mortgage or equity of redemption shall be vested, shall be required to transfer the same, the registrar may endorse the security or the certificate of the share, or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form, or to the like effect:

"A.B by C.D., registrar of the High/Magistrate's Court of the
..... Judicial Division/Magisterial District; in a suit by E. F.
versus A.B."

Until the transfer of such security or share, the court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made, or document executed, or receipt signed as aforesaid, shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself.

Order VIII Garnishee Proceedings

1. Subject to the next succeeding rule garnishee proceedings may be taken in a magistrate's court notwithstanding that the debt owing or accruing from the judgment debtor is for an amount exceeding the jurisdiction of that court.
2. Garnishee proceedings may be taken-
 - (a) in any court in which the judgment debtor could, under the High Court (Civil Procedure) Rules or under the appropriate section or rule governing civil procedure in Magistrates' Courts, as the case may be, sue the garnishee in respect of the debt; or
 - (b) where the debt is not yet payable, or is for an amount exceeding the jurisdiction of such court, in any court in which the judgment debtor could have sued the garnishee as aforesaid if the debt had been immediately payable or had not exceeded the jurisdiction.

3. (1) A judgment creditor who desires to take garnishee proceedings shall file in the court registry-
 - (a) an affidavit in Form 25; and
 - (b) if the garnishee proceedings are taken in a court other than the court in which the judgment was given or made, a certified copy of the judgment.
- (2) The registrar shall thereupon enter the proceedings in the books of the court and fix a day for the hearing and issue an order nisi in Form 26 and make all necessary copies thereof.
4. (1) The order nisi shall be served in accordance with the rules for the service of an ordinary summons issued from the court from which the order is issued.
- (2) Subject to subsection (2) of section 83 of the Act, the interval between service and the hearing shall be fixed by the registrar having regard to the distance from the court of the place where any person to be served resides.
- (3) Where an order nisi is sent for service to a foreign court, the registrar of the foreign court shall, according as the order is or is not served, send the copy of the order nisi, or a notification that it has not been served, to the registrar of the home court so that it is received not less than two clear days before the return day.
5. (1) The garnishee may within eight days of the service of the summons on him inclusive of the day of service, pay into court-
 - (a) the amount alleged to be due from him to the judgment debtor; or
 - (b) if that amount is more than sufficient to satisfy the amount due under the judgment and the costs entered on the garnishee order, a sum sufficient to satisfy the last-mentioned amount and costs.
- (2) Upon payment into court as aforesaid, the proceedings against the garnishee shall be stayed.
6. Where money is paid into court by the garnishee the registrar may by consent of the judgment debtor order the money to be paid out before the return day, or in the absence of the consent of the judgment debtor the court may on the return day after hearing the judgment creditor and the judgment debtor, if he appears, make such order in the proceedings (including an order as to costs) as may be just.

7. (1) Execution against the garnishee under section 86 of the Act shall be by a writ of execution in Form 27.
- (2) Application for the issue of the writ shall be made by filing a praecipe in Form 3.
8. (1) If no amount is paid into court, the court, instead of making an order that execution shall issue, may, after hearing the judgment creditor, the garnishee, and the judgment debtor or such of them as appear, determine the question of the liability of the garnishee, and may make such order as to the payment to the judgment creditor Of any sum found to be due from the garnishee to the judgment debtor and as to costs as may be just, or may make an order under section 87 of the Act.
- (2) If an order is made under section 87 of the Act for the trial or determination of any issue or question it shall direct which of the persons interested, including such third person as is referred to in section 88 of the Act, shall be plaintiff and which shall be defendant.
9. Where garnishee proceedings are taken in a court other than the court in which the judgment was given, the registrar of the first- mentioned court shall send to the registrar of the last-mentioned court a copy of the judgment given in the garnishee proceedings and also from time to time notice of any amount levied or paid into court in the proceedings.
10. Any costs allowed to the judgment creditor, which are not ordered to be paid by the garnishee personally, shall, unless it is otherwise ordered, be retained by the judgment creditor out of the money recovered by him in the garnishee proceedings, in priority to the amount due under the judgment.
11. A Judge or magistrate may, in his discretion, refuse to make or issue a garnishee order, where from the smallness of the amount to be recovered, or of the debt sought to be attached, or otherwise, the remedy sought would be worthless or vexatious.
12. Part IV of the Act and this Order shall apply to debts owing or accruing from a firm carrying on business within Nigeria, although one or more members of the firm may be resident abroad.

Order IX
Judgment Summons

1. (1) Where a court has made an order for payment of any sum of money by installments, a judgment summons may be issued as well before as after default in payment of any installment according to the order.
- (2) Where an order is made in the judgment summons proceedings before default in payment of any installment, other than an order for the attachment and sale of the judgment debtor's property or a new order for the payment of money more beneficial to the judgment creditor than the order for payment by installments, no costs shall be allowed to the judgment creditor, and the court may order him to pay any costs reasonably incurred by the judgment debtor, unless the judgment debtor is proved to have been guilty of any misconduct enumerated in paragraphs (a) to (e) of section 66 of the Act.
2. (1) Where a judgment creditor who has issued a writ of attachment and sale against a judgment debtor applies for the issue of a judgment summons against him, proceedings on the writ shall be stayed and the stay shall not be removed except by leave of the court.
- (2) The judgment summons shall not be issued until the judgment creditor has paid any fees or expenses incurred in the execution of the writ.
3. The registrar may refuse to issue a judgment summons against a judgment debtor who does not reside or carry on business within the division or district of the court to which the application for the summons is made unless at the time of filing the praecipe the judgment creditor deposits in the court registry a sum reasonably sufficient to cover the expenses of the judgment debtor in traveling to and from the court, the amount to be fixed by the registrar.
- (2) The registrar shall pay the money so deposited to the registrar of the court of the division or district where the judgment debtor resides.
- (3) The last mentioned registrar may either-
 - (a) encash the Treasury deposit receipt, and shall then cause the money to be-
 - (i) paid or tendered to the judgment debtor, or
 - (ii) expended in the purchase of a transport warrant or travel ticket for the judgment debtor or otherwise applied directly to the payment of the traveling expenses; or
 - (b) pay the money to the sheriff, who shall deal with it in any of the ways in which the registrar himself might have dealt with it.

- (4) If the money or any part of it remains unexpended it shall be repayable to the judgment creditor by or through the court from which the summons was issued.
4. The judgment debtor's traveling expenses, whether paid in the first instance by the judgment creditor or not, shall be costs in the proceedings on the judgment summons, and shall be payable and recoverable accordingly:

Provided that such traveling expenses, and any other proper costs of the judgment debtor and compensation for the loss of his time, if allowed to the judgment debtor, may be set off against the judgment debt.
5.
 - (1) A judgment summons shall be served personally in accordance with the rules for personal service of an ordinary summons issued from the court from which the judgment summons is issued.
 - (2) The interval between service and the hearing shall be such number of clear days not less than five as the registrar may direct, having regard to the distance from the court of the place where the judgment debtor resides.
 - (3) Where a judgment summons is sent for service to a foreign court, the registrar of the foreign court shall, according as the summons is or is not served, send the copy of the summons, or a notification that it has not been served, to the registrar of the home court so that it is received not less than two clear days before the return day.
6. An order under section 62 of the Act for the interim protection of property shall be enforceable by a writ of interim attachment in Form 47.
7.
 - (1) In or upon every writ of interim attachment against the property of a judgment debtor, the registrar shall cause to be inserted or endorsed the sum of money upon payment of which the judgment summons will be satisfied.
 - (2) If the judgment debtor, before the actual sale of the property under any writ of attachment and sale, pays or causes to be paid or tendered to the bailiff holding the writ or to the court which issued the writ, or to the foreign court, if any, the sum of money inserted or endorsed as aforesaid, or such part thereof as the judgment creditor agrees to accept in full satisfaction, the interim attachment shall be superseded and the property of the judgment debtor shall be discharged and set at liberty.
 - (3) The provisions of sub-paragraphs (a) to (c) of paragraph (2) of rule 18 of Order IV shall apply where payment is made under this rule.
 - (4) The court at the hearing of the judgment summons may in its discretion make an order suspending an interim attachment.

8. (1) In or upon every judgment summons the registrar shall cause to be inserted or endorsed the sum of money on payment of which the judgment summons will be satisfied.
 - (2) If the judgment debtor at any time before the making of a final order upon the judgment summons pays or causes to be paid or tendered to the registrar of the court from which the judgment summons issued, or to the bailiff holding the judgment summons, the sum of money inserted or endorsed as aforesaid, or such part thereof as the judgment creditor agrees to accept in full satisfaction, it, the judgment summons may, if the judge or magistrate thinks fit, be struck out.
9. (1) Upon the issue of a judgment summons, and at any time thereafter before an order or warrant of committal (except a warrant of committal under section 61 of the Act) has been issued, the judgment debtor may file in duplicate a full statement and account of all property of whatever nature belonging to him, whether in expectancy or possession, and whether held exclusively by him or jointly with others, or by others in trust for him, excepting the necessary wearing apparel of himself and his family and the necessary implements of his trade, if any, to the value of ten naira, and of the places respectively where such property is to be found.
 - (2) The registrar shall give or send the duplicate statement to the judgment creditor.
 - (3) If at the hearing of the judgment summons the judgment debtor, upon whom the onus of proof in this regard shall lie, shall satisfy the court that he has made a full surrender and discharge of his property, and that he is unable because of unavoidable misfortune to satisfy the judgment, and that he has not been guilty of any misconduct mentioned in section 66 of the Act, and that he ought not to be imprisoned, the court shall make no order for the commitment of the judgment debtor under section 63 (a) of the Act and shall, if the judgment debtor is in prison, make an order for his discharge under section 63 (d) of the Act:

Provided that, if it shall subsequently be shown to the satisfaction of the court that the judgment debtor has not made a full disclosure, the preceding provisions of this rule shall no longer be applicable.
10. Where, upon the hearing of a judgment summons, the judgment debtor disputes the amount in payment of which he is alleged to have made default, he may give evidence, and the judgment creditor and all other witnesses whom the court thinks requisite may be examined by or on behalf of the judgment debtor and by the court as to what amount, if any, remains due under the judgment and as to any money or other valuable consideration which may have been paid or given

to the judgment creditor by or on behalf of the judgment debtor in respect of the judgment debt or of any release, compromise, or accord and satisfaction of the judgment debt, or under any process for the enforcement of the judgment.

11. (1) Where a new order for payment of a judgment debt is made there shall be included in the amount payable under that order for the purpose of any proceedings, otherwise than by judgment summons, any amount in respect of which an order of commitment under section 63 or 68 of the Act has been made and the debtor imprisoned, but so that the debtor shall not be liable to be imprisoned a second time for non-payment of either last-mentioned amount.
 - (2) No judgment summons under the new order shall include any amount in respect of which the debtor was imprisoned before the new order was made, and any amount paid subsequently to the new order shall be appropriated in the first instance to the amount due under the new order.
 - (3) Detention under section 58 or 66, or committal under section 61, of the Act, shall not be deemed to be imprisonment for the purposes of this rule.
12. On the hearing of a judgment summons no costs shall be allowed to the judgment creditor unless the court is satisfied that the judgment debtor has had, since the date of the original judgment or order, the means to pay the sum in payment of which he has made default, and a note thereof is entered in the minutes of the proceedings.
- (2) When on the hearing of a judgment summons the court makes a new order for payment of the amount remaining unpaid, the order shall be in Form 19 or Form 20, whichever is applicable.
13. (1) When an order enforceable by committal under section 72 of the Act has been made the registrar shall, if the order was made in the absence of the judgment debtor and is for the delivery of goods without the option of paying their value or is in the nature of an injunction, at the time when the order is drawn up, and in any other case, on the application of the judgment creditor, issue a copy of the order endorsed with a notice in Form 48, and the copy so endorsed shall be served on the judgment debtor in like manner as a judgment summons.
- (2) If the judgment debtor fails to obey the order the registrar on the application of the judgment creditor shall issue a notice in Form 49 not less than two clear days after service of the endorsed copy of the order, and the notice shall be served on the judgment debtor in like manner as a judgment summons.

- (3) On the day named in the notice the court, on being satisfied that the judgment debtor has failed to obey the order and, if the judgment debtor does not appear-
- (a) that the notice has been served on him; and
 - (b) if the order was made in his absence, that the endorsed copy thereof has also been served on him,
- may order that he be committed to prison and that a warrant of commitment may issue.

Order X
Arrest and Imprisonment

1. Where any order for the enforcement of a judgment is made where under process affecting the person of a judgment debtor may be or is to be issued or reissued the Judge or magistrate may by the same or a subsequent order direct that the process shall only issue after a certain time, and in the event of the continued refusal or neglect of the judgment debtor at that time to comply with the judgment.
2. Where an order has been made under the preceding rule and the judgment debtor subsequently desires to apply for a further extension of time to comply with the order, he shall apply to the registrar, stating the reasons for his inability to comply with the order, and the registrar shall fix a day for the hearing of the application by the court and notify the judgment creditor and the judgment debtor thereof in time for them to attend.
3. Where an order of commitment or of arrest and detention is made, the Judge or magistrate shall record, as part of the minutes of the proceedings or the note of his determination of the proceedings, a note showing under what section of the Act it is made.
4. Where the court gives a direction under section 70 of the Act for the employment of a judgment debtor during imprisonment, the registrar shall enter or endorse on the warrant a certificate in Form 50.
5. The appropriate process for the enforcement of an order-
 - (a) of commitment made under section 63 of the Act, shall be entitled an order of commitment, and shall be in Form 17 or Form 18;

- (b) of commitment made under section 61 or section 68 or 72 of the Act, shall be entitled a warrant of commitment, and shall be in Form 51 or Form 52 or Form 53, as the case may be;
 - (c) of arrest and detention under section 58 or 66 of the Act, shall be entitled a warrant of arrest and detention and shall be in Form 54;
 - (d) to bring before the court a judgment debtor in custody, shall be entitled a production warrant, and shall be in Form 55.
6. Where two or more judgment debtors are ordered to be committed or detained in respect of the same judgment a separate order or warrant shall be issued in respect of each debtor.
7. (1) Where an order is made for the issue of a warrant to arrest an absconding defendant, the warrant shall issue forthwith and no praecipe shall be required.
- (2) At the time of making any order of commitment or re- commitment or of arrest and detention the court may order that the order or warrant be issued or reissued forthwith, and shall thereupon give all necessary directions respecting subsistence money, and in such case no praecipe shall be required.
- (3) The costs of an application for an order under the proviso to section 78 of the Act that no subsistence money be allowed in respect of a commitment shall be paid by the judgment creditor unless the application is made at the hearing of the judgment summons or of any application under rule 13 of Order IX or for the discharge of the judgment debtor, as the case may be, and if such order is made the order or warrant shall be issued or reissued without payment of subsistence money.
- (4) Where an order for a warrant to arrest an absconding defendant or an order of arrest and detention is made, the Judge or magistrate-
- (a) if the warrant is to issue forthwith, shall at the same time; and
 - (b) in any other case, may at any time,

either of his own motion or on the application of the judgment debtor, direct either that no subsistence money be allowed or that subsistence money be allowed at such rate not exceeding twenty-six kobo per day as he thinks sufficient, and in the latter case shall fix such amount thereof as he thinks fit as the amount to be paid by the judgment creditor before the issue of the warrant; and if the Judge or magistrate directs that no

subsistence money be allowed, or gives no direction, the warrant shall be issued without payment of subsistence money.

- (5) Where a judgment creditor desires an order or warrant for the commitment of a judgment debtor to be issued or reissued or a warrant for the arrest and detention of a judgment debtor to be issued, he shall, unless an order for the issue or reissue of the order or warrant forthwith has been made, file a praecipe in Form 56.
 - (6) The registrar shall enter on the praecipe particulars of any order or direction of the court respecting subsistence money, and if any such order or direction is lacking, shall first submit the praecipe to the Judge or magistrate for the purpose of obtaining the same.
 - (7) Upon payment of the expenses of conveying the judgment debtor to prison, if required, and the amount of subsistence money, if any, due to the end of the current month, or due to the end of the term of imprisonment if the term is a month or less, or directed to be paid before issue, as the case may require, the order or warrant shall be issued or reissued.
 - (8) The registrar shall enter or endorse on the order or warrant a note in Form 57.
8. Subject to the provisions of section 81 of the Act, the court in its discretion may order that any expenses of conveying a judgment debtor or absconding defendant in custody to prison or to court shall be defrayed by any party, and may make the payment of such expenses a condition precedent to any relief dependent on such conveyance; and such expenses, if paid by a judgment creditor, shall, unless the court orders them to be borne by the judgment creditor, be recoverable by the judgment creditor in like manner as subsistence money under section 80 of the Act.
 9. The registrar shall retain each amount received by him in respect of subsistence allowance until the expiry of the relevant period of the term of imprisonment, or the liberation of the judgment debtor, whichever shall be the sooner, and shall upon such expiry or liberation pay to the officer in charge of the prison all subsistence money then accrued due and payable to him.
 10. A warrant for the arrest and detention of a judgment debtor may be sent for execution to a foreign court in accordance with the provisions of section 39 of the Act and these Rules as if it were an order or warrant for the committal of a judgment debtor to prison.
 11. Where an order or warrant of commitment, other than a warrant of commitment under section 61 of the Act, is sent to a foreign court under the provisions of the

Act, the registrar of the foreign court shall endorse on it a notice in Form 58 addressed to the officer in charge of the nearest prison.

12. (1) Where a judgment debtor is arrested under an order or warrant of commitment, other than a warrant of commitment under section 61 of the Act, he shall be imprisoned in the prison mentioned in the order or warrant, or, if the warrant is executed in the division or district of a foreign court, in the prison mentioned in the notice in Form 58 endorsed on the warrant.
- (2) Where a judgment debtor is arrested under a warrant of commitment under section 61 of the Act, or a warrant of arrest and detention, he shall be forthwith conveyed to the prison mentioned in the warrant and there imprisoned or detained.
13. (1) When issuing a warrant of arrest and detention under section 66 of the Act, or a warrant of commitment under section 68 of the Act, or making an order for the issue of any such warrant, the Judge or magistrate, in his discretion, may direct that the order or warrant be superseded and the judgment debtor discharged upon payment of the amount in default at the time of issue of the warrant together with the fees for issue of the warrant.
- (2) Such direction shall be expressed in the order or warrant by entering therein the total of the said amount and fees as the sum on payment of which the judgment debtor is to be discharged, and on payment of such sum he shall be discharged.
- (3) If no such direction is given, the aforesaid total sum shall be entered on the order or warrant as the sum on payment of which the judgment debtor may be discharged by order of the court, and on payment thereof he shall be detained in custody to await the order of the court.
14. (1) Upon the issue or reissue of-
 - (a) a warrant of arrest and detention under section 58 of the Act, or a warrant of commitment under section 61 of the Act, or an order of commitment under section 63 of the Act, or
 - (b) any warrant mentioned in paragraph (1) of rule 13 of this Order whereon is expressed such direction as is mentioned in that rule for the discharge of the judgment debtor upon payment,

then before the judgment debtor is imprisoned thereunder he, or anyone on his behalf, may pay to the judgment creditor, or to the bailiff holding the order or warrant, or to the court which made the order, or to the foreign court, if any, the amount entered on the order as that on

payment of which the judgment debtor is to be discharged, or part of such amount.

- (2) Where any such payment or part payment is made, the following provisions shall apply-
- (a) where the money is paid to the judgment creditor, he shall inform the registrar of the court which made the order of commitment or arrest and detention;
 - (b) where the money is paid, or the judgment creditor's information is given, to the court of the division or district in which the order or warrant is to be executed, the registrar shall notify the bailiff holding the order or warrant of the payment;
 - (c) where the money is paid, or the judgment creditor's information is given, to the home court after the order or any order or warrant issued thereunder has been sent to a foreign court for execution, the registrar of the home court shall send notice of the payment in Form 39 to the registrar of the foreign court, who shall notify the bailiff holding the order or warrant of the payment;
 - (d) where the money is paid or paid over to the foreign court, the registrar of that court shall follow the procedure prescribed in paragraphs (3) and (4) of rule 28 of Order II;
 - (e) where payment or part payment is made or notified to the bailiff holding the order or warrant, then-
 - (i) if the payment is of the whole amount, he shall liberate the judgment debtor, and
 - (ii) if the payment is of part of the amount he shall deduct the sum paid from the amount entered on the order or warrant as that on payment of which the debtor is to be discharged, and the order of commitment or arrest and detention and the order or warrant issued thereunder shall thenceforth operate for non-payment of the balance only; and if the part payment was made on the judgment debtor's behalf, he shall inform the judgment debtor thereof,
 - (iii) if he himself receives the payment or part payment, he shall notify the registrar of the court from which the order or warrant was last sent to him.

15. (1) Upon the issue or reissue of any warrant mentioned in paragraph (1) of rule 13 of this Order containing no direction such as is mentioned in that

rule for the discharge of the judgment debtor upon payment, then before the judgment debtor is imprisoned thereunder he, or anyone on his behalf, may make payment or part payment of the amount entered on the warrant as that on payment of which the judgment debtor may be discharged by order of the court, to any of the persons mentioned in paragraph (1) of rule 14 of this Order.

- (2) Where any such payment or part payment is made or notified, or information thereof is given, other than to the bailiff holding the warrant, the provisions of sub-paragraphs (a) to (d) of paragraph (2) of rule 14 of this Order shall apply and where payment or part payment is made or notified to the bailiff holding the warrant-
 - (a) he shall deduct the sum paid from the amount entered on the warrant as that on payment of which the judgment debtor may be discharged by order of the court and the order for commitment or detention, and the warrant issued thereunder, shall thenceforth operate only for non-payment of the balance, if any, and for the misconduct; and
 - (b) he shall inform the judgment debtor of any payment made on the judgment debtor's behalf; and
 - (c) he shall deliver the judgment debtor to the officer in charge of the prison mentioned in the warrant; and
 - (d) if he himself receives the payment or part payment, he shall notify the registrar of the court from which the warrant was last sent to him.

16. (1) Where a judgment debtor is imprisoned under any order or warrant mentioned in paragraph (1) of rule 14 of this Order, he or anyone on his behalf, may pay to the judgment creditor, or to the officer in charge of the prison, or to the court which made the order, or to the foreign court, if any, the amount entered on the order as that on payment of which the judgment creditor is to be discharged, or part of the amount.

- (2) Where payment is made of the whole amount, or the judgment creditor makes default in payment of subsistence allowance, the following provisions shall apply-
 - (a) where the money is paid to the judgment creditor, he shall sign a certificate of payment in Form 21 and send it to the officer in charge of the prison;
 - (b) where the money is paid to, or default is made in payment of subsistence allowance payable to, the registrar of the court of the division or district in which the order or warrant was executed, the

registrar shall sign a certificate of payment in Form 21 or default in Form 22, as the case may be, and send it to the officer in charge of the prison;

- (c) where the money is paid to the registrar of the home court after the order or any order or warrant issued thereunder has been sent to a foreign court for execution, the registrar of the home court shall notify the payment to the registrar of the foreign court, who shall sign the appropriate certificate and send it to the officer in charge of the prison;
 - (d) where the money is paid or paid over to the foreign court, the registrar of that court shall follow the procedure prescribed in paragraph (3) and (4) of rule 28 of Order II;
 - (e) where the money is paid to the officer in charge of the prison, or he receives either of the certificates mentioned above, he shall liberate the judgment debtor, unless he is also imprisoned in respect of another order; and such officer shall also, if he himself receives the payment, pay the money over to the registrar of the court from which the order or warrant was last sent to him and send with it a certificate in Form 59.
- (3) Where payment is made of part of the amount, the provisions of subparagraphs (a) to (d) of the last preceding paragraph of this rule shall apply except in so far as they relate to default in payment of subsistence allowance, and except that no certificate shall be required but in lieu thereof a notice of the part-payment in Form 60 shall be sent to the officer in charge of the prison; and where the money is paid to the officer in charge of the prison, or he receives such notice, he shall deduct the sum paid from the amount entered on the order or warrant as that on payment of which the debtor is to be discharged, and the order of commitment or arrest and detention, and the order or warrant issued thereunder shall thenceforth operate for non-payment of the balance only, and if the part-payment was made on the judgment debtor's behalf such officer shall inform the judgment debtor thereof; and such officer shall also, if he himself receives the part – payment, pay the money over to the registrar of the court from which the order or warrant was last sent to him, and send with it a notice of part-payment in Form 60.
17. (1) Where a judgment debtor is imprisoned under any warrant mentioned in paragraph (1) of rule 15 of this Order, he, or anyone on his behalf, may make payment or part-payment of the amount entered on the warrant as that on payment of which the judgment debtor may be discharged by order of the court, to any of the persons mentioned in paragraph (1) of rule 16 of this Order.

(2) Where any such payment or part-payment is made, or the judgment creditor makes default in payment of subsistence allowance, the provisions contained in sub-paragraphs (a) to (d) of paragraph (2), and in paragraph (3), of rule 16 of this Order shall apply, except that where payment or part-payment is made or certified to the officer in charge of the prison, or he receives a certificate in Form 21 or Form 22.

(a) he shall deduct the sum paid from the amount entered on the warrant as that on payment of which the judgment debtor may be discharged by order of the court; and the order for commitment or detention, and the warrant issued thereunder, shall thenceforth operate only for non-payment of the balance, if any, and for the misconduct; and

(b) he shall inform the judgment debtor of any payment made on the judgment debtor's behalf; and

(c) he shall retain the judgment debtor in custody until the further order of the court; and

(d) if he himself receives the payment or part-payment, he shall pay the money over to the registrar of the court from which the warrant was last sent to him, and send with it a certificate in Form 59 or a notice in Form 60, as the case may require.

(3) The provisions of this rule relating to default in payment of subsistence allowance shall apply in the case of a judgment debtor imprisoned under section 72 of the Act.

18. (1) Where a judgment debtor is imprisoned under any warrant mentioned in paragraph (1) of rule 15 of this Order or under section 72 of the Act and the registrar of the court from which the warrant was issued receives payment or information or notification or a certificate of payment of the sum on payment of which the judgment debtor may be discharged by order of the court, or where default is made in payment of subsistence allowance, or where the judgment creditor makes a request for the discharge of the judgment debtor, the registrar shall inform the Judge or magistrate, who may thereupon, if he thinks fit, make an order for the discharge of the judgment debtor forthwith.

(2) If the Judge or magistrate does not make an order for the discharge of the judgment debtor forthwith, the registrar shall issue a production warrant in Form 55 for bringing the judgment debtor before the court at the time stated therein, which shall be the earliest convenient time.

(3) Upon hearing the judgment debtor, the court may make an order in accordance with the provisions of section 73 of the Act.

19. Where a judgment debtor prisoner makes an application for his discharge under section 74 of the Act, the court shall order the judgment debtor to be brought before it at the time fixed for the examination under section 75 (1) of the Act, and shall notify the judgment creditor of that time.
20. (1) A judgment debtor imprisoned under the provisions of section 72 or 66 (f) of the Act may apply to the court for his discharge or liberation. The application shall be accompanied by a statement of the grounds upon which it is made, and shall be verified by oath or affidavit.
 - (2) On such application being made the registrar shall cause the judgment creditor to be furnished with a copy of the statement and shall fix a time for examining and hearing the parties, and shall notify the judgment creditor of that time.
 - (3) The court shall order the judgment debtor to be brought before it at the time appointed for the examination.
 - (4) If the court is satisfied upon such inquiry, wherein the onus of proof shall be upon the judgment debtor-
 - (a) that the judgment debtor has obeyed the order for non-compliance with which he was committed, or is not and will never be able to obey it, the court shall make an order for the discharge of the judgment debtor, to take effect either forthwith, or at the expiry of such term of imprisonment not exceeding one year as the court thinks fit, or upon payment, in lieu of such imprisonment, of a fine not exceeding the civil jurisdiction in damages of the court;
 - (b) that the judgment debtor is desirous of obeying the order, and is or will be able to obey it, and is willing and able to give security to obey it, the court shall make an order for the liberation of the judgment debtor, to take effect either forthwith and unconditionally, or forthwith and upon such terms, including liability to recommitment if the terms are not complied with, as the court thinks fit, or at the expiry of the period of imprisonment, or upon payment of the fine, mentioned in the last preceding sub-paragraph of this rule.
21. (1) Where an order for the discharge or liberation of a judgment debtor has been made or refused, the following provisions shall apply-
 - (a) the registrar shall send to the officer in charge of the prison-

(i) where the judgment debtor has been brought to court, the original order or warrant of commitment, accompanied by or endorsed with an order in Form 36 or endorsed in Form 61,

(ii) where the judgment debtor has remained in prison, an order in Form 36 or a notice in Form 61,

and the original order or warrant of commitment shall operate subject to and in accordance with such order, endorsement, or notice;

(b) If the judgment debtor is present when the order is made or refused, then-

(i) if an order is made for his discharge or liberation forthwith, or upon terms which he then obeys or has not disobeyed, he shall be liberated forthwith:

(ii) if an order is made for his discharge or liberation at a future date, or upon terms with which he refuses to comply, or if no order is made, he shall be sent back to the prison;

(c) where the judgment debtor has remained in or is sent back to the prison, the officer in charge of the prison, upon receipt of the order or endorsement in Form 36 or endorsement or notice in Form 61, shall liberate the judgment debtor, or detain him and subsequently liberate him, in accordance with the original order or warrant of commitment and the first- mentioned order, endorsement, or notice;

(d) where after the failure of the judgment creditor to pay subsistence money an order for the discharge of the judgment debtor is refused, or is made to take effect at a future date, the court may make an order in accordance with the provisions of section 81 of the Act.

22. (1) Where a judgment creditor desires to obtain an order for the recommitment of a judgment debtor-

(a) liberated under rule 20 of this Order on terms which include liability to recommitment if the terms are not complied with; or

(b) liberated under section 75 of the Act,

then in either such case the judgment creditor may apply to the court on notice to the judgment debtor.

(2) If the court is satisfied upon the hearing of the application-

- (a) that the judgment debtor liberated under rule 20 of this Order has failed to comply with a term non-compliance with which renders him liable to recommitment, the court may order him to be recommitted;
 - (b) that the judgment debtor liberated under section 75 of the Act has not made a full disclosure of his property, the court shall make an order in accordance with the proviso to subsection (2) of that section.
- (3) Where an order for the recommitment of the judgment debtor is made, the original order or warrant of commitment shall be recalled and endorsed in Form 62, and may then be reissued at the instance of the judgment creditor, and shall operate in accordance with the endorsement.

Order XI
Other Process

1. An order to stop the clearance of, or for the arrest and detention of, any ship, shall be enforceable by a warrant in interim attachment. Form 64.
2. An order of interim attachment in an action shall be enforceable by a writ of interim attachment in Form 64.
3. An order to arrest an absconding defendant shall be enforceable by a warrant in Form 65 or Form 66 according as the order is made in the High Court or a magistrate's court.
4. (1) A judgment for the delivery of goods shall be enforceable by writ of delivery in Form 67 or Form 68.
(2) Where a writ of delivery is issued, the plaintiff shall either by the same or a separate writ of execution be entitled to execution against the judgment debtor's property for any sum of money and costs awarded.
(3) Nothing in this rule shall prejudice the power of the court to enforce the judgment by commitment.
5. A judgment or order for the recovery of land, or for the delivery of possession of land, in an action other than an action between landlord and tenant shall be enforceable by a writ of possession, which shall be in like form as a warrant of possession under the Recovery of Premises Law of a State, and shall be addressed to the sheriff.

6. Where, in an action for recovery of land, judgment is given for the recovery thereof (with or without rent or mesne profits) and costs, there may be either one writ or warrant or separate writs or warrants for possession of the land and for rent and mesne profits and for costs, and after the execution of the writ the sheriff shall file a certificate as provided under the Recovery of Premises Law of a State.
7. An application for a writ of delivery or a writ or warrant of possession shall be made by filing a praecipe in Form 3, except where on by the same writ or warrant execution is to be levied upon immovable property, when the application shall be made under rule 16 of Order IV
8. An application for a writ of sequestration shall be made to a Judge; and the writ shall be in Form 69.
9. A writ of sequestration shall be directed to two or more commissioners to be appointed by the court for the purpose, who shall be commanded and empowered to enter upon all the immovable property of the person against whom the writ shall issue, and to collect, take and get into their hands, not only the rents and profits of his immovable property, but also all his goods and movable property, and detain and keep the same under sequestration in their hands, until he shall clear his contempt or the court shall make other order to the contrary, and the court may order the payment out of the proceeds of such sequestration of all charges attending the execution thereof, including such reasonable remuneration to the commissioners as the court shall think fit to allow, and all the provisions of the rules respecting attachment of property under a decree for money shall, so far as applicable, apply in the case of a writ of sequestration.
10. Where a judgment directs any deed to be prepared or executed, it shall state by which party the deed shall be prepared, and to whom it shall be submitted for approval, and, if the parties cannot agree upon the form of the deed, the court may, upon the application of any party on notice, settle the deed itself, or name a legal practitioner by whom it shall be settled, subject to the final approval of the court.
11. Where a judgment directs any deed to be executed or any negotiable instrument to be endorsed, and the party ordered to execute or endorse such deed or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed, may prepare a deed or endorsement of the instrument in accordance with the terms of the judgment and tender the same to the court for execution, upon the proper stamp (if any is required by law), and the execution thereof by the registrar in the form prepared by rule 13 of Order VII shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Order XII
Forms and Fees

1. The forms in the First Schedule hereto shall be added to the forms in the Schedule to the Act.
2. (1) The Chief Registrar may from time to time cause to be printed with such variations in format, and distributed to the several registrars of the High Court and the magistrates' courts in such numbers, as he shall think fit, any of the forms contained in the Schedule to the Act, and wherever any forms so printed are available they shall be used to the exclusion of forms prepared in any other way.

(2) Where any form required to be used in a particular case is not available printed as aforesaid, the registrar shall cause the form to be drawn up in the court registry, or may, where the form is not a form of process, accept the form after it has been drawn up by or on behalf of the party at whose instance it is to be used, and any form which the registrar draws up or accepts, may, if it is the same in all necessary respects as the appropriate form contained in the Schedule to the Act, be used as if it were printed as aforesaid.

(3) Where any form is drawn up in the registry of a magistrate's court as prescribed in the last preceding paragraph, it may, by and under the direction of the magistrate, and subject to section 23 of the Interpretation Act, be abbreviated by the omission of any recital or part of any recital, and in such case all consequential variations shall be made in the remainder of the form and a form so abbreviated may be used as if it were a form printed as aforesaid, and shall be good and sufficient in law.
3. Where any form is used, it shall contain the particulars required by it.
4. (1) The fees specified in the Second Schedule hereto shall be paid, received, recovered, receipted, accounted for and disposed of in accordance with the rules and regulations relating to fees for the time being applying in the court in which the proceeding is taken or the process is issued.

(2) Where, in any court, in relation to any proceeding under the Act or these Rules, anything is required to be done in respect of which no fee is specified in the Second Schedule hereto, but in respect of which a fee would be payable if the thing were required to be done in relation to other proceedings in that court, then the fee so payable shall be paid, received, recovered, receipted, accounted for, and disposed of as if the thing were required to be done in relation to such other proceedings.

5. No fee shall be payable in respect of the filing of a praecipe or other application made to the registrar for the issue of process, or in respect of the drawing up or issue of an order for the discharge or liberation of a judgment debtor prisoner.
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